

ORAVIA week

1912

FIC/WS/PSN/1#2

Action of Recurrent Weeks

(but see under Salings distribution as well)

S. S. "O R A V I A"

APPORTIONMENT of £500 received for Life Salvage.

<u>Amount of Salvage</u>	.	.	.	.	.	.	£500. - . -
<u>Deduct expenses.</u>	.	.	.	.	.	.	£ 8. 8. -
Net amount for apportionment	.	.	.	.	.	.	£491.12. -

The Owners abandon their right to a proportion subject to the Manager and Staff receiving the following sums:-

Mr W. A. Harding	Manager	.	.	.	.	£50. - . -
W. C. Girling	Asst "	.	.	.	.	£25. - . -
L. V. Oswald	Clerk	.	.	.	.	£15. - . -
B. Girling	"	.	.	.	.	£10. - . -

						£100. - . -

Leaving as proportion of Captain, Crews and others assisting	.	.	.	.	.	.	£391.12. -

							£491.12. -

APPORTIONMENT between Captain, Crews and others assisting.

Master & Crew of Tug "Samson"

H. Thomas	Master.	.	.	.	.	£ 50. - . -
P. Mills	Engineer	.	.	.	.	£ 26.19. 4
G. F. Atherton	Asst "	.	.	.	.	£ 12.17. 6
R. Atkins	Fireman	.	.	.	.	£ 10.15. 9
J. May	"	.	.	.	.	£ 10.15. 9
A. Pattersen	Boatswain	.	.	.	.	£ 12. 2. 9
T. Lanning	Cook etc	.	.	.	.	£ 10.15. 9
A. Sedgwick	Seaman	.	.	.	.	£ 10.15. 9
J. Ratcliff	"	.	.	.	.	£ 10.15. 9

Helpers

W. B. Dixon	.	.	.	.	£ 7. 3.11
F. Hardy	.	.	.	.	£ 5. 7.10
W. McAtasney	.	.	.	.	£ 5. 7.10

"Plym" Crew

H. Jones	In charge	.	.	.	.	£ 16. 3. 7
J. Evans	Engineer	.	.	.	.	£ 15. 1.11
A. Neilson	Seaman	.	.	.	.	£ 10.15. 9
V. A. H. Biggs.	Foreman Carpenter	.	.	.	.	£ 13.19. 9
J. Lanning	Boy	.	.	.	.	£ 4. 6. 2

	-----
Carried forward							£234. 5. 1

INCE, COLT, INCE & ROSCOE,

SOLICITORS.

TELEGRAMS,

INCISIVE-GRACE, LONDON.

TELEPHONE 2224 CENTRAL.

CODES { SCOTTS 10TH EDITION.
A. B. C. 5TH EDITION.

PARTNERS,

FRANCIS INCE.

G. BRACE COLT.

JOHN O. INCE.

E. G. ROSCOE.

(EXAMINER IN ADMIRALTY)

12
ST BENET CHAMBERS,

FENCHURCH STREET,

(GRACECHURCH STREET CORNER)

LONDON, E. C.

January 28th 1913.

Duplicate

The Falkland Islands Company Limited
61 Gracechurch Street

Dear Sirs,

Receivers of Wreck

It appears to us that the first thing that is necessary to give the Receiver jurisdiction to interfere is that Wreck is found in some part of the British Dominions and is unclaimed. He may then take ----- possession and assume command of all persons present and assign duties &c &c to them the salvage of the wreck being entirely under the Receivers jurisdiction but if the Master and crew of the vessel are on board he cannot interfere with them unless he is requested to do so by the Master.

As in the first case you were appointed agents for the Owners and the Master was on the spot it appears to us that the Receiver was unduly officious and had no right whatever to take charge of everything unless he was so requested by the Master and by you as the Owner's agents. He had no right to sell sundry boats cabin fittings silver plate ropes &c belonging to the ship, the owner is entitled to his own property and he had no right whatever to sell any valuable rams which were consigned to you.

You and the Captain as representing the ship and the property thereon were clearly entitled to salve any property you were able

from the wreck both as regards ship and cargo and it appears to us that the receiver of wreck under the circumstances you state had as much jurisdiction over your property as the man in the moon

It was your and the owners duty to save the rams if possible and the owners could properly then deliver them to you as the consignees and the owners of the property

We are of opinion that your view is quite correct and that the Receiver of wreck has no power whatever except to dispose of unclaimed property

Under the 518th section of the Merchant Shipping Act even if the owner of property on board the Ship which has been abandoned finds or takes possession of the wreck if he is the owner he ~~gets~~ keeps the property even under these circumstances and gives notice to the receiver of the district that he has taken possession of same and gives particulars of marks &c so that the property might be identified

If a Receiver properly takes possession of a wreck he has to ----- advertise as provided by the Act the property of which he has taken possession and under the 521st sec: he is bound with property that is not of a perishable nature to hold it for a year during which period any owner may claim the property and he is entitled to possession after paying any salvage fees and expenses due in respect of the property The receiver of wreck is not entitled to salvage

If the property is damaged or is of a perishable nature and cannot with advantage be kept or is under the value of £5 or is

nor sufficient value for warehousing the Receiver may at once sell if he is properly in possession but clearly he cannot sell property of which the owner is in possession on the spot and in respect of which the owner can prove his title to such property

We think it would be well if you were to kindly send out to the Falkland Islands a copy of this letter because Receivers of Wreck are very officious and constantly are endeavouring to clothe themselves with an authority they do not possess, they are only really a necessary evil in the shape of officialdom where neither the master the crew nor the owners of the vessel are in possession of the wreck their duties arise when it is clear the property will be lost without their intermeddling

Yours faithfully

John Collin Macpherson

John Collin Macpherson

INCE, COLT, INCE & ROSCOE,

SOLICITORS.

TELEGRAMS.

INCISIVE-GRACE, LONDON.

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(EXAMINER IN ADMIRALTY)

ST BENET CHAMBERS.

FENCHURCH STREET,

(GRACECHURCH STREET CORNER)

LONDON, E. C.

February 4th 1913

The Falkland Islands Company Limited
Gracechurch st

Dear Sirs,

Enclosed we return you the Falkland Islands Ordinance No 3
of 1899

We are of opinion that this document does not in any way alter
what we stated to you in our letter of the 28th ulto

We have underlined in red ink the words which are of vital
importance and which practically stop the Receiver from interfering
The master of the ship was there and his crew and the owners were
represented by your house on the spot and under these circumstances we
consider the Receiver had no right to interfere in the management
of the ship or the delivery of the Rams to you unless he was requested
so to do by the Master and this was not the fact.

Yours faithfully

Ince Colt Ince & Roscoe

E

16

February 4th 1913

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Gracechurch St

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of the ship or the delivery of the Rams to you unless he was requested
so to do by the Master and this was not the fact.

Yours faithfully

Arthur H. ...

EXTRACT FROM LETTER FROM

Liverpool

TO

The Governor of the Falklands

DATED

8th

Febry 1901

RECEIVED IN LIVERPOOL

The only circumstance which has caused us serious concern since the accident occurred, is the way in which the Receiver of Wrecks has been dealing with property belonging to the F.S.N.Co., and which should not have been disposed of without our consent, the Company being quite willing to satisfy all proper demands for salvage, without having their goods sold at great sacrifice in a limited market. As bearing upon this point, I think it well to enclose a legal opinion on the subject, which has been given by Messrs. Ince, Colt, Ince & Roscoe, to the Falkland Islands Company. Captain Peole and our own Agent being on the spot, it seems to us that the Receiver of Wrecks altogether exceeded his duty.

I also beg to enclose copy of a letter which has just been received from Mr. Lowrey (Secretary of the London Salvage Association) bearing upon the action of the Receiver of Wrecks.

SAVAGE ASSOCIATION.

(Copy)

19, Birchin Lane,

L O N D O N, E.C. 7th February, 1913.

The Manager,

Pacific Steam Navigation Company,

LIVERPOOL.

Dear Sir,

"ORAVIA."

I refer to our telephonic communication of to-day on the subject of the cargo washing ashore at the Falklands.

I have, of course, not had the advantage of seeing any formal contract which may have been signed; but I think we are entitled to assume it is in the usual form, and this would certainly not give the contractors any preferential rights in connection with cargo washing ashore; I would recommend you to instruct your agents to take charge of any such cargo, and deal with it to the best advantage, treating any expenses they may incur as a first charge against the value or proceeds. Of course, if the salvage contractors can manage to pick up any of this cargo, they will seek to be allowed their percentage on it.

I gather that the Receiver of Wrecks at Port Stanley is claiming to take possession of cargo etc., and, no doubt, you will instruct your agents to point out to the Receiver that you, as Ship-owners, are the legal custodians of the entire property, and are entitled to deal with it through your own representatives, subject, of course, to the due payment of any charges which may legitimately

attach for salvage. If the Receiver of Wrecks is reasonable and acts in accordance with the practice here, he will leave matters to your agent.

Yours faithfully,
(Sgd.) J. LOWREY,
Secretary.

Copy

London, 4th February, 1913.

Messrs. The Pacific Steam Navigation Co.,

Liverpool.

Dear Sirs,

When Mr. Connell was in London last week, I gave him a copy of a letter from our Solicitors on the duties and powers of the Receiver of Wrecks, as established under the Merchant Shipping Act, which I believe he has passed on to you. I thought at the time that this act was in force at the Islands, but I have since found a local Ordinance which was built on it, and this I sent to our Solicitors, asking them if it in any way modified their opinion. I have just heard from them that it does not; and I enclose for your consideration their further letter, together with a copy of the Ordinance, both of which I shall be glad to have back when you have done with them.

The question is a very important one for us. In the case of the "Oravia", we find that, although the Master was on the spot, and we were your Agents, the management of the whole affair was taken out of our hands, as far as we can learn, and that the Receiver even took possession of and sold cabin electroplate and sundry of the ship's fittings, as well as some rams which had been consigned to us, and about which there are already signs of trouble with the Underwriters. What I cannot find out is whether all this property was voluntarily handed to the Receiver to be dealt with, or whether he asserted his right to interfere. In

the former case, it may have been done through misapprehension, and our objection must fall to the ground; but in the latter we cannot accept the pretensions of the Receiver without protest. On the actual facts you have, I have no doubt, a statement from Captain Foole, which ought to leave no doubt about the matter.

If you agree that this is an important matter, - and if left alone it will stand as a precedent - perhaps you may think it worth while to ask the opinion of your own Solicitors. When I was in Stanley, in my capacity as Lloyd's Agent, and on behalf of Underwriters who specially instructed me, I dealt with numerous wrecks, and directed the disposal of thousand of pounds' worth of cargo, in doing which the Receiver of Wrecks never dreamt of interfering with me. If things had been then as they are now, I could not have moved a step without his sanction and approval.

I am leaving for Liverpool tomorrow night, and hope to have the pleasure of calling upon you on Thursday.

I am, Dear Sirs,
yours truly,
(Signed) Fredk.E.Cobb.

Managing Director.

(Signed) Fredk.E.Cobb.

Managing Director.

Copy

London, 7th February, 1913.

Messrs. The Pacific Steam Navigation Co.,

Liverpool.

Dear Sirs,

From Mr. Harding's advices of 25th November I take the following:-

"Salvage of Mails. All the letter mails were brought up by "the Plym, and the parcel mails were landed conjointly by the "Samson and one of the "Whalers."

"We have sustained the following losses:- two boats taken "out by the Plym worth £30 each have been swamped alongside "the Whalers, and completely lost", &c., &c.

The above extracts refer to two of the subjects discussed yesterday.

Regarding the position of a shipmaster with regard to ship and cargo, I beg to refer you to the opening sentence in the Instructions to Lloyd's Agents on page 1007 of the Appendix to this year's Lloyd's Register. Captain Poole had the whip hand, if he had chosen to use it; whether he could leave the place and delegate that power is another story, and I am much pressed for time.

Yours truly,

(Signed) Fredk.E.Cobb.

Managing Director.

General Manager.

Copy

THE PACIFIC STEAM NAVIGATION COMPANY,

Liverpool, 8th Feb. 1913.

F. E. Cobb, Esq.,

The Falkland Islands Co. Ltd.,

London.

Dear Sir,

We duly received your letter of yesterday, for which we thank you.

We have this morning received a radio from the "Oropesa", via Port Stanley, reading as follows:-

"Oravia" salvage abandoned Divers cannot work, boats
"bought P.S.N. account taking same Valparaiso "Oravia"
"totally submerged no cargo saved. Hobson".

We may say that after you left us we got into tele-
phonic communication with Mr. Lowrey of The London Salvage
Association, so as to be quite sure what our position would be
towards the Punta Arenas Contractors if any wreckage came ashore.
We also showed the attitude taken up by the Receiver of Wrecks, and
now have pleasure in enclosing copy of Mr. Lowrey's reply, which
is self-explanatory. It more than ever shows that both our
Captain and our Agents were wrong in not asserting themselves.

Yours faithfully,

For the Pacific Steam Navigation Co.,

(Signed) Frederick Alcock.

General Manager.

Copy

FLEETWING

PUNTA AGENAS.

Oravia as Agents you are legally entitled to take charge of

wreck and cargo. Protest against action of Receiver.

Assert your position.

Pacific.

12th February, 13.

Messrs. The Pacific Steam Navigation Co.,
Liverpool.

Dear Sirs,

I have your favour of the 8th inst., which only arrived yesterday morning.

The letter from Mr. Lowrey is very satisfactory, and gratifying to myself personally, as I have asserted from the beginning that the action taken by the Receiver was ultra vires.

It appears now that you are in a good position to notify the Under Secretary of State for the Colonies that you will, in due time, formulate a claim on the Colonial Government for the loss sustained by your Company through the seizure and wrongful sale of your boats, cabin fitting, plate, rifles, &c., the Receiver of Wrecks being a person for whose actions the Government is responsible. The measure of your loss would be the difference between the prices at which the various articles were sacrificed at auction and their value to you if transferred to other ships of your line. Probably the difference between £6 and 5/-, as representing the cost and sale price of your rifles would be the largest item; the whole thing might not amount to much, but there is a principle concerned, and, if no protest is raised, the late proceedings may some day be quoted as a precedent in a case involving much larger

sums.

You asked me to draw up a cable, to be transmitted to meet the "Orissa" at Punta Arenas on the 17th inst., instructing our Manager to assert our rights as your Agents. On reading Mr. Lowrey's letter, it occurs to me that the message would have much greater force if signed and sent by your goodselves, and I enclose a suggestion, which you may be able to code.

I beg also to submit for your consideration whether it would not be well, in case you write to the Colonial Office, to add a suggestion that the Secretary of State might think it desirable to inform the Governor by cable that your agents are not to be interfered with. This might save some trouble during the six weeks that will elapse between the receipt of your cable and its confirmation by mail.

With regard to what you say about your Captain and your Agents not having asserted themselves, no doubt it would have been better if they had done so, but they were not sure of their ground, and had no legal advice at hand. The main fact is that the Receiver took the initiative; and when a Colonial Official, with the Governor at his back, puts his foot down, I know from my experience in the Falklands that there is not much use in kicking. The only course in such a case is to submit under protest, giving the Government formal notice in writing that they are acting on their own responsibility, and it would have been better if this had been done; though the want of it does not relieve the Executive of their liability.

Yours faithfully,

Managing Director

(8)

27th March, 1913.

Dear Mr. Cobb,

I duly received yours of the 20th inst. and return the ordinance, as I now understand from Mr. Lamb, with whom I have had a word or two, that they have the copy.

Both Mr. Alcock and Mr. Lamb have been away since the holidays, and are not yet back. I shall however see them about this matter in the course of a day or two, but meanwhile I understand Mr. Lamb's view is that it is very questionable whether it can be clearly shown that the Receiver has exceeded his authority to the extent suggested, and that the grounds of the Company being doubtful about this are in the first place, that Clause 13, read by the ordinary person, would almost seem to indicate that the prohibition of the receiver is in respect to questions arising between the Master and the crew, and that Clause 14 with the marginal heading "disposal of all cargo", seems to prescribe the authority of the receiver in respect to cargo, and gives him apparently absolute power over same if "washed on shore or otherwise taken from such ship".

I know, having explained this, that you will now

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P. B. Cobb, Esq.

understand more clearly the Company's hesitation.

But if help I shall write or see you after seeing Mr. Lamb.

Yours sincerely,

P. B. Cobb, Esq.

LONDON.

Lamb have been very kind to me in this matter in the course of a day or two. I shall however be very glad to see you if you can find time to do so. I shall be glad to see you if you can find time to do so. I shall be glad to see you if you can find time to do so.

PERSONAL.

Copy

28th March, 1913.

Dear Connell,

Thanks for your letter, I quite see the reason for the hesitation felt by the PSNC, but to me there seems to be all the more reason for having the thing thrashed out now, as the "Oravia" case will stand as a precedent for all time, unless something is done.

The Wrecks Ordinance, 1899, is evidently built on the Imperial Act, the Merchant Shipping Act of 1894, which I have before me. It is worth observing the clauses in the Act and the corresponding ones in the Ordinance, and the difference between them.

Act of 1894

511-2. The Receiver shall not interfere between the Master and the crew of the vessel in reference to the management thereof, unless he is requested to do so by the master.

519-1. Any cargo or other articles belonging to or separated from the vessel, which may be washed on shore or otherwise lost or taken from the vessel shall be delivered to the receiver.

Ordinance of 1899

It shall not be lawful for such Receiver to interfere between the Master of such ship and his crew in matters relating to the management thereof unless he is requested so to do by such Master.

All cargo and other articles belonging to such ship as aforesaid that may be washed on shore or otherwise taken from such ship shall be delivered to the Receiver. If any person, whether he is the owner or not, secretes

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

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, such person shall for each offence be liable to a penalty not exceeding £100.

You will see that the differences are entirely verbal ones, and that the Ordinance does not confer greater powers than the Act. With regard to interference, "thereof" occurs in both, and many would say, especially those who are not lawyers, that it refers to the management of the crew and not the vessel, although the Act puts "vessel" immediately before "management", and the Ordinance "crew". But, since the Ordinance is understood to be built on the Act, it is legitimate to infer that if the transposition of these words alters the sense, it is the result of careless drafting.

As to cargo, and its disposal, the two are practically identical. Why, with the Act of Parliament in his mind, and with a knowledge that he of all men should possess of the usual custom observed in the cases of wrecks, should Mr. Lowry write so confidently that it should be pointed out to the Receiver that the PSNC, as shipowners, are the legal custodians of the entire property, and are entitled to deal with it through their representatives, further,

that if the Receiver is reasonable, and acts in accordance with the practice here, he would leave matters to their agent, He would not write lightly or without consideration on such an important subject, and, although he may not have been aware of the local Ordinance, since the latter is identical in terms with the Act, the course followed under the one, in hundreds of cases no doubt, should be adhered to under the other.

When we see that, acting under what is clearly a misinterpretation of the law and of his powers, the Receiver has seized the Pacific Company's spoons, rifles, and boats, not to mention other trifles, from under the noses of their Captain and Agent, and that he has taken forcible possession of at least one case of goods, consigned to a resident in Stanley, and sold it by auction, can we possibly let such things pass without making some effort to prevent the recurrence of such atrocities? And if he really takes his stand on an error in interpreting the Ordinance, which prescribes precisely to same procedure as the Act, under which Mr. Lowry defines what is usually done, is there any way of getting matters ~~xxx~~ righted, except by putting the facts before the Colonial Office? I have before said that I cannot do it; I should be told at once that if the PSNC did not object their agents had less right to do so. I can puts the facts before Lloyd's, but might get snubbed even by them.

Yours sincerely,

(Signed) Fredk.E.Cobb.

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Extract from Instructions to Lloyd's Agents.

Extract from letter from Salvage Association of 7th February, 1911.

Extract from letter from W.A. Harding, dated 19th February, 1911.

It is essential that Lloyd's Agent should understand that, according to English law, the master of a vessel has, as Agent of the shipowner, control over both ship and cargo, and is responsible for both. Nothing less than a special power can take away this control over the property confided to his charge.....

I gather that the Receiver of Wrecks at Port Stanley is claiming to take possession of cargo etc., and, no doubt, you will instruct your agents to point out to the Receiver that you, as Shipowners, are the legal custodians of the entire property, and are entitled to deal with it through your own representatives, subject, of course, to the due payment of any charges which may legitimately attach for salvage. If the Receiver of Wrecks is reasonable, and acts in accordance with the practice here, he will leave matters to your agent.

I have also received a telegram from the Pacific Steam Navigation Company, "Oravia as agent you are legally entitled to take entire charge of wreck and cargo. Protest against action of Receiver assert your position". The Receiver of Wrecks has in this case, as in other similar cases, taken his stand upon Ordinance no. 2 of 1899, a copy of which I send you herewith.

25th April, 18.

Joseph Lantry, Esq.,

Salvage Association,

19, Victoria Lane, S.C.

Dear Sir,

The wreck of the "Oravia" at the Falkland Islands last November has raised questions, as to the jurisdiction and powers of the receiver of wrecks on the one hand, and of the Master and Agents on the other, which it is desirable to have settled in an authoritative manner. The Pacific Steam Navigation Co. were the owners of the vessel, and we are their agents at Port Stanley; I am aware of correspondence that has passed between yourself and the Company on this subject, and have received permission from Mr. Alcock to refer to it.

The circumstances of the case may be stated briefly, and are, I believe, beyond dispute. The steamer was wrecked on a rock outside Port Stanley, and the receiver at once asserted his authority under the law, as he read it, to take charge of the whole of the property out of the Master's hands, the latter, in fact, giving it up without protest. Under the receiver's direction, all articles saved, mainly forming parts of the ship's equipment, were sold by auction: with the cargo, apparently, it was impossible to

(9)

deal, and it became a total loss.

The value of the salvaged property was comparatively trivial; but the action of the Receiver appeared to me to be so far reaching in its effects, and so likely to hamper our interest in the future in his capacity as Lloyd's Agent, if allowed to pass as a precedent, that I thought it desirable to take the opinion of our Solicitors on the subject. In their judgment, briefly, the first thing necessary to give the Receiver jurisdiction to interfere is that wreck is found in some part of the British dominions and is unclaimed, ^{It is their opinion} but that if the Master and crew of the vessel are on board he cannot interfere with them unless requested to do so by the Master: that as we were Agents for the Owners of the steamer and the Master was on the spot, it appeared to them that the Receiver was unduly officious, and that he had no right to sell boats, gear, &c. belonging to the ship, the Owners being entitled to their own property. I confess that I asked for this opinion with an open mind, rather leaning to the idea, on the wording of the law, that the Receiver had not overstepped the mark; however, I communicated the opinion to the P.S.N.Co., and I received from them shortly afterwards a copy of your letter of the 7th of February last, in which you said, referring to the possibility of cargo washing ashore, that you would recommend them to instruct their agents to take charge of any such cargo, and deal with it to the best advantage, and, further, that their agents should point out to the Receiver that they, as Shipowners, were the legal custodians of the entire property, and were entitled to deal

with it through their own representatives, subject to payment of charges. You added that if the Receiver acted in accordance with the practice here, he would leave matters to their agent.

Here we have prepared for us the foundation of a conflict which must occur, sooner or later, unless the question of jurisdiction in such cases is definitely settled. From what we know now, it is clear that any cargo washing ashore would be seized and dealt with by the Receiver, despite any attempt on the part of our Manager to carry out the instructions you advised the Pacific S.N.Co. to give him as their agent. It becomes necessary, therefore, to ascertain precisely what a Receiver in this country would do in a similar case, assuming that he is reasonable, as you suggest in the letter already quoted. Any information that you can give on this point will be of value; the P.S.N.Co. are not sufficiently interested to move in the matter, and it is mainly with an eye to the future that I regard the question as being one of supreme importance.

The P.S.N.Co. have sent me an opinion given by an Average Adjuster in Liverpool, adverse to the view expressed in your letter of the 7th of February; but, as a case is cited in which salvors had handed a vessel over to the Receiver of Wrecks with the request to hold her until they obtained bail, and the Receiver was held by the Court to be in the right, it seems as if the "Oravia" case had been imperfectly stated, or that the Average Adjuster had missed the point: unquestionably the Receiver in protecting the salvors had the law at his back, and he would not re-

lease the property until bail had been given - the cases are not parallel. Had the P.S.W.Co. through their agent undertaken to pay salvars when adjusted, I suggest that the property could have been claimed; but the action of the Receiver was not based on any question of this sort.

Having been Lloyd's Agent at the Falkland Islands myself from 1869 to 1891, I can speak with some knowledge of the course followed in cases of wreck during my residence there. In that period I dealt personally with many wrecks, either as agent for the insurer, or under instructions from Underwriters, and in no case was I interfered with by the Receiver of wrecks. I could give the names of many, but it will be sufficient to mention one, that of the "Luigia S." of Genoa, in which case I acted under your Association at the time Mr. Harper was Secretary. I dealt with a large quantity of cargo, according to the best of my judgment, and, if the case is still on record in your office, I think that you will find that the steps taken met with your predecessor's approval. If that case had occurred at the present time, Lloyd's Agent would have had to stand aside, and the proceedings would have been conducted by a Government Official, no doubt a painstaking and blameless individual, but not one of any mercantile or shipping experience. Whether in his hands the interests of Underwriters could be expected to be efficiently protected, I will leave it to you to judge.

Our Manager has written that in dealing with the small matters arising out of the wreck of the "Oravia" the Receiver took

(signed) Fredk. E. Cobb.
pains and was of infinite use; this view is also put forward by
the Governor of the Islands in writing to the P.S.N.Co., and it
is considered by them to justify the position he took up. But it
does not alter the dictum laid down by you that the Shipowners
were the legal custodians of the entire property, and I suggest
that his action should be regarded more ~~as~~ in the light of benev-
olent assistance rendered to their agent than as an exercise of
a legal right.

Wrecks in the Falkland Islands are dealt with according to
an Ordinance framed on the lines of the Merchant Shipping Act,
and I do not think that it conflicts with any of the main provis-
ions of the latter. But, should it do so, with the effect of
taking out of the hands of Owners and Underwriters that control
which they ought to exercise, then, in their interests, an at-
tempt should be made to get it altered.

I am, Dear Sir,

yours faithfully,

(signed) Fredk. E. Cobb.

Managing Director.

C O P Y

SALVAGE ASSOCIATION

19, Birch Lane,
London, E.C.

5th May, 1918.

F. A. Cobb, Esq.,

Managing Director,

The Falkland Islands Company, Ltd.,

61, Gracechurch Street, E.C.

Dear Sir,

"OLAVIA"

I duly received your favour of the 25th ultimo and have now had an opportunity of refreshing my memory with regard to the circumstances of this case.

I am disposed to think that there may possibly be some misunderstanding as to the basis on which the Receiver of Wreck intervened in this case and it would perhaps be well to ascertain definitely through your friends at Port Stanley. There is probably no reason why Mr. Harding should not discuss the position quite frankly with the Governor and the Receiver of Wreck, letting them know that the case is receiving attention on this side and that if they have exaggerated views as to their right of intervention in cases of this kind representations will have to be made through the proper Government Department.

I have not before me a copy of the "Local Wreck Ordinance" to which reference is made but there is a specific statement in the letter from the Governor to Mr. Alcock, of which he was good enough to give me a copy, that "there was no attempt on the part of the

Receiver to interfere with Captain Leslie's management. Throughout the Receiver has consulted and worked with your Local Agents and done nothing without their sanction."

The question of whether the Receiver of Wreck exceeded his authority or exceeded the authority usually assumed by Receivers of Wreck in this country will largely turn upon the extent to which, if at all, there was an abandonment of the property by the owners' representatives - the Captain and your Company. I do not think there should be anything in the Local Ordinance which would conflict with the law and practice in this country and, as indicated in the letter to which you refer, the practice here is perfectly clear. There is no interference on the part of the Receiver of Wreck in any ordinary case where the Captain or other representative of the owners or anyone representing the Underwriters on the property has intervened and taken ^{the necessary} steps, but where property is abandoned whether it be the ship itself in a wrecked condition or portions of the ship or cargo washing ashore the Receiver of Wreck does take possession and retains possession until some accredited person or persons intervenes and gives him an undertaking to be responsible for any liabilities which have been incurred. Salvors, as you know, frequently deliver a salvaged vessel or salvaged property to the Receiver of Wreck and in such cases he retains possession on their behalf until their lien is protected by an adequate guarantee on behalf of those interested in the property.

I should hope if the question is frankly discussed at Port Stanley it will be found there is no reason to fear any future

attempt on the part of the Governor or Receiver of Wreck to interfere with the discretionary authority of the Captain of any wrecked vessel and or your firm as the accredited representatives of Owners and Underwriters. The assistance of the Receiver may very well be of substantial value in certain cases, and the impression I derived from the Governor's letter in the case of the "Oravia" was that apart from any question of improper intervention the local Authorities had rendered useful service. I agree with you that if they seriously claim to take possession without the authority of the Captain when the Captain and other representatives of the parties concerned are prepared to take charge it will be necessary to go very carefully into the whole question, but as I have indicated I think there may be some misunderstanding and this impression is confirmed by the action of the Master with regard to the property in, as you put it, "giving it up without protest". It is not possible that the Receiver of Wreck or his representative suggested to the Captain that the wisest thing he could do would be to allow the Receiver to take possession of what had been salvaged and deal with it to the best advantage? Under the circumstances of this case the Captain was no doubt a good deal worried and, probably thinking that nothing much could be saved, he may have quite willingly gone further in the way of turning over the property to the custody of the Receiver of Wreck than appears.

Yours faithfully,

(Signed) J. LONNAN.

Secretary.

er is absolute. It is clear, therefore, that, while in this country there is no interference, as you say, on the part of the Receiver of Wreck in any ordinary case where the Captain or other representative of the Owners or anyone connected with the Adventure or the property has intervened, and taken the necessary steps.

18th May, 18.

J. Lowrey, Esq.,

Salvage Association,

19, Birchin Lane, E.C.

Dear Sir,

I have to acknowledge the receipt of your favour of the 5th instant, to which I should have replied earlier, had I not been waiting for some information I had asked the Pacific S.N.Co. to supply. My intervention on the part of the Receiver. On the spot I am now able to say that there was no misunderstanding as to the basis on which the Receiver of Wreck intervened in the case of the "Oravia". I enclose a copy of the local Wrecks Ordinance, 1889, based on the Merchant Shipping Act, and can say that the Receiver acted under clause 13, which prescribes that "whenever any ship is stranded or in distress within the limits of the Colony the Receiver of the district shall forthwith proceed to such place, and take the command etc". This has been literally interpreted, not only in this case, but in several previous ones, and, in the absence of any legal advice, has been accepted without question or protest. Moreover, under clause 11, "the Governor shall throughout the Colony have the general superintendence of all matters relating to wrecks", and in a Crown Colony his

power is absolute. It is clear, therefore, that, while in this country there is no interference, as you say, on the part of the Receiver of Wreck in any ordinary case where the Captain or other representative of the Owners or anyone representing the Underwriters on the property has intervened, and taken the necessary steps, in the Colony the reverse is the case, and the Governor assumes through the Receiver of Wreck the general superintendence. Several instances of the new order of things could be given, but one will suffice. In 1874, a vessel named the "Saguenay" with a cargo of flour was wrecked in the Islands, and I went to the spot at once myself, as Lloyd's Agent, took instructions from the Captain, and arranged for salvage, carrying the whole thing through without any intervention on the part of the Receiver. On the 20th of May, 1886, the "Cassard" of Nantes with a cargo of wheat was wrecked on Hecker Island, and, writing on the 11th of June following, our acting manager reported, "all matters in connection with the case are in the hands of the Receiver of Wrecks, and so far nothing has been done with reference to a survey of the wreck, or sale of anything that may be salvaged". It is evident that on that occasion also the Receiver assumed the entire command.

I think that you will agree that an understanding should be arrived at as to the limits of interference by the Authorities, when a Master or Agent is able and willing to supervise the management of wrecked property. The opening paragraph of "Instructions to Lloyd's Agents" lays down the fact that according to English law it is the duty of a Captain in his own name, - a com-

lish law the master of a vessel has, as agent of the shipowner, control over both ship and cargo, and is responsible for both; nothing less than a special power can take away the control over the property confided to his charge; but the master can appoint an agent, etc. Unless I am greatly mistaken, the Government authorities take the Ordinance as empowering them to over-ride not only the master, but any agent specially instructed by, for instance, your Association, or anyone else interested in wrecked property; the Governor, in fact, claims to have general superintendence. I would suggest that you might think it advisable to write to Mr. Harding, Lloyd's Agent, on the subject, with a view to coming to an agreement which would save the Government from the unpleasant necessity of an appeal to the Colonial Office. But should that course become necessary, obviously the Secretary of State would have to be asked that an amending clause might be passed, providing that nothing in the Ordinance should be construed as interfering with the rights of the master, the owners, or the Underwriters of the property. If you were to instruct Mr. Harding yourself, it would come with far more force than anything that could be written from this office.

With regard to the Governor's superintendence, there is one feature that might make the position awkward, the fact that, although not a lawyer, he holds the position of Chief Justice of the Colony. It is quite conceivable that a shipmaster, taking exception to some act of his as Superintendent of wrecks, might make him in that capacity a defendant in his own Court, - a some-

what Gilbertian situation.

Referring to your last paragraph, there is no doubt that in the case of the "Oravia" the assistance of the Receiver was of substantial value in dealing with a matter of small matters of detail, and this Mr. Harding willingly acknowledges. While I am sure that the Receiver made no objection to the Captain in the sense you indicate, I think that his action, by agreement with and in co-operation with Lloyd's Agent, could in future be recog-

Dear Sir
nized as assistance and not ^{as} the exercise of a legal right. It would be the best solution of the difficulty that has arisen.

I am much obliged for your favour of today and for the way

I am, Dear Sir,

yours faithfully,

Managing Director.

obviously refers to persons on the coast who are or may be in the position of salvors and is not intended to refer to the captain and crew of the stranded vessel or to agents acting on behalf of one with the authority of the owners or underwriters. The wording is somewhat unfortunate, but the meaning is undoubtedly as I suggest and is in accordance with the practice in this country.

I shall be glad to know what you think would be best course of

COPY

SALVAGE ASSOCIATION

19, Birchin Lane,

London, E.C.

16th May, 1913.

F.H.Cobb, Esq.,

Falkland Islands Company Ltd.

London.

Dear Sir,

"ORAVIA"

I am much obliged for your favour of today and for the copy of the Falkland Islands Local Vessels Ordinance which you are good enough to send. I am glad to have had an opportunity of seeing this as I think it makes it clear that there has been a misunderstanding as to the intention and effect of Clause 12. This clause is practically identical with clause 511 in the Merchants Shipping Act and the authority to

"take the command of all persons present
"and assign such duties and issue such
"directions as he may think fit".

obviously refers to persons on the coast who are or may be in the position of salvors and is not intended to refer to the Captain and crew of the stranded vessel or to agents acting on behalf of and with the authority of the Owners or Underwriters. The wording is somewhat unfortunate, but the meaning is undoubtedly as I suggest and ^{as} is in accordance with the practice in this country.

I shall be glad to know what you think would be ^{the} best ^{course} of

procedure. I can write as you suggest to Mr. Harding dealing with the matter on the lines indicated above and asking him to endeavour to arrive at a clear understanding with the Authorities on this basis, at the same time intimating that if there is any difficulty we must communicate with the Colonial Office. On the other hand we can if you think it well communicate first with the Colonial Office and endeavour to obtain from them an expression of opinion. The difficulty of getting a satisfactory expression of opinion from a Government department or getting that expression of opinion within a reasonable period is as you know very great, and my own feeling is that it might be well to try to deal with the point in the Falkland Islands in the first place at least. I think this is also your own view, but I will do nothing pending receipt of your reply.

Yours faithfully,

(Signed) J.A. LAWLEY.

Secretary.

the Governor shall throughout the Colony have the general super-
intendence of all matters relating to wrecks, and shall have
power to direct the same to be investigated, and to cause the same to be
reported to him through an official, or such other officer as he may think
fit to appoint for that purpose. If it seems that his position, as
officer, is such as to be in conflict with the interests of the
Board of Trade or other authority, then there would be no harm in his
being appointed as an official, not a mercantile man, should assume the
responsibility of the same in such circumstances. It is a pretension that
cannot be maintained, especially as it is a
departure.

20th day, 18.

J. Lowrey, Esq.,

Salvage Association,

19, Bичhin Lane, E.C.

Dear Sir,

I am obliged for your favour of the 16th instant, the con-
tents of which are satisfactory, as confirming the opinion I had
formed on the subject of the attitude of the Falkland Islands
Government in the matter of wrecks.

In reply to your question as to the best course of procedure
I agree entirely with what you say. An application direct to the
Colonial Office would cause endless delay, for the question would
as a preliminary, be referred to the Colony for the Governor's
report; even then it is doubtful whether the several points would
be satisfactorily cleared up, and a further reference might be
necessary. Although our experience of the present Governor tells
us that he is of an untending disposition, it would only be an
act of courtesy to give him an opportunity of receding voluntar-
ily from an untenable position, instead of being compelled to ab-
andon it under the direction of his official superiors.

In addition to the misconstruction put upon clause 12 of the
Ordinance, I would suggest that clause 11, which provides that

the Governor shall throughout the Colony have the general superintendence of all matters relating to wrecks, must either have crept in through an oversight, or have been wrongly interpreted. If it means that his position, ex officio, is the same as that of the Board of Trade at home, then there would be no harm in it; but that he, an official, not a mercantile man, should assume the right to take charge in all circumstances, is a pretension that cannot be allowed to pass without protest, especially as it is a comparatively new departure.

I am, Dear Sir,

yours faithfully,

Managing Director.

Yours faithfully,

(Signed) J. J. L. L.

Secretary.

COPY

SALVAGE ASSOCIATION

19, Birchin Lane,
London, E.C.

20th May, 1913.

F. R. Cobb, Esq.,
The Falkland Islands Company, Limited,
London.

Dear Sir,

"OMAVIA"

I am much obliged for your favour of today and will in the course of the next few days endeavour to write a diplomatic letter to Mr. Harding which will deal with the questions involved in a manner which will afford the Governor and the local Authorities an opportunity of definitely stating that they do not contend that the Receiver of Wreck is entitled to supersede the Captain of a vessel which is in trouble and the authorised representatives of the owners and Underwriters of the property.

Yours faithfully,

(Signed) J. S. LOWERY.

Secretary.

through your friends at London. I have already written to Mr. Harding should not be surprised if the Governor and the Receiver of Wreck, telling them that the case is receiving attention on this side and that if they have exaggerated views as to their right of intervention in cases of this kind representations will have to be made through the proper Government Department.

I have not before me a copy of the "Local Wreck Act" which reference is made but there is a specific clause in the letter from the Governor to the Admiralty, of which I have to give no copy, since there was no attempt on the part of the

TELEGRAMS—"LANGRIDGE." LONDON.
TELEPHONE 4263 AVENUE.

H. Y. LANGRIDGE & CO.,
Ship & Insurance Brokers,
16, GREAT ST. HELENS, E.C.

THE LOST "ORAVIA."

£80,000 OF CARGO—HULL AND
MACHINERY "AT OWNERS'
RISK."

Although no further information of any importance was available yesterday regarding the Pacific Steam Navigation Company's vessel "Oravia," which has been wrecked on the Falkland Islands, there is no doubt that she will rank as a total loss. It appears that the insurance of the hull was retained by the company in accordance with their usual practice, but the cargo, valued at £80,000, will constitute a claim upon underwriters. The freight was of a general character and destined for the Falklands and ports on the West Coast of South America. The vessel was of 5,314 tons burthen, and was built some fifteen years ago. It may be taken, therefore, that she was valued in the company's books at a comparatively small figure. Inquiries made yesterday served to indicate that London underwriters are only interested in the cargo to a very small extent, and the major portion of the sum involved will fall upon the Liverpool companies and their associates. The loss of the "Oravia" brings the average of such occurrences this year up to one per month in the case of vessels ranking as liners, which is a fairly high figure and justifies the steps recently taken by the marine insurance market to increase rates. It is curious to note, however, that, although the Falklands have a bad reputation in the matter of shipping casualties, it is a long time since there has been a disaster in this part of the world, and it still remains to be explained how the "Oravia" managed to get ashore at a spot which is known to be dangerous and has accounted for nearly 50 per cent. of the wrecks in those latitudes. Moreover, the "Oravia" had been navigating this route for a long time past and her captain was familiar with all the difficult spots. The moral to be drawn is that experience has little to do with safety at sea and that captains who have traversed a given route all their lives are almost as liable to come to grief as others who, perhaps, are only commencing their career.

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TELEGRAMS—"LANGRIDGE." LONDON.
TELEPHONE 4263 AVENUE.

H. Y. LANGRIDGE & CO.,
Ship & Insurance Brokers,
16, GREAT ST. HELENS, E.C.

ORAVIA (s).—*Buenos Ayres, Nov. 16.*—Admiral Domecq Gacia has informed the Ministry of Marine by wireless from the cruiser San Martin, that the Pacific Steam Navigation Company's liner Oravia, bound for Valparaiso, has been wrecked on the Malvinas (Malvinas) Islands. The passengers and crew were saved. —*Reuter.*

—*London, Nov. 16.*—Telegram received from the owners, dated Liverpool, Nov. 16, 10 a.m., states:—Following telegram dated 7 20 p.m. yesterday has come to hand from our agents at Buenos Ayres:—Am advised by Minister Marino Oravia wrecked off Seal Rock, Falklands. No lives lost. Further information will be telegraphed.

ORAVIA (s).—*Punta Arenas (by Cable, received Nov. 16).*—Oravia (s): Wireless telegram received

states she has been wrecked near Falklands. Passengers saved.

—*Montevideo, Nov. 16, 1 50 p.m.*—Wireless from Stanley, F.I., reports:—Oravia (s) ashore Falkland Islands. Crew and passengers all well.

—*Liverpool, Nov. 16, 4 16 p.m.*—Following just received from Montevideo agents:—Captain Poole telegraphs Oravia ashore Falklands, unable proceed. Instruct Oronsa call for our passengers, message ends. Instructions have been sent to Oronsa (s) to proceed to Port Stanley.

—*Buenos Ayres, Nov. 16, 6 30 p.m.*—British steamer Oravia, after proceeding Falkland Islands, grounded heavily on Seal Rock. Reported wrecked. No lives lost.

SAVED BY WIRELESS.

THE WRECK OF THE LINER
ORAVIA.

21/10/12
BUENOS AIRES, Thursday.
The steamer Huanchaco has arrived at Punta Arenas with a number of the passengers of the Pacific Steam Navigation Company's vessel Oravia, which was wrecked off the Falkland Islands on November 12. The other passengers remained on the islands awaiting the arrival of the steamship Oronsa.

It appears that the vessel struck a rock half a mile from the lighthouse at the entrance to Port Stanley at ten o'clock at night. Blinding snow and intense darkness made it impossible to see anything. The wireless apparatus proved the salvation of those on board, for in response to the signals of distress five whaleboats arrived three hours after the ship struck.

The mails and baggage were also saved, but the cargo was lost as the Oravia broke in two and sank. There was no loss of life.—*Reuter.*

1912

19/11/12