

C.S.

Wrecks

1919

"Betha"

SHIVES/2 # 26

No.

554.

S. of S. No 418

SUBJECT.

1919

11th March

Previous Paper.

699/18.

Opinion of Board of Trade's solicitor on ownership and removal of wreck "Betha".

MINUTES.

Hon Treasurer, Receiver of Wrecks

For your information

21.8.19

*M. J.*  
/

Hon. Col. Secty.

Correspondence read. According to the opinion expressed by the Solicitor to the Board of Trade, the Falkland Is. Co who claim to be the owners of the wreck of the ship "Betha" would have to abandon their claim to the wreck before the Crown could take possession. No definite opinion is given as to whether the wreck becomes vested in the Crown through the effluxion of time and the failure of the owners to remove it.

2. I believe that many years ago the Falkland Is. Co, made an attempt to salvage the timber but found it impossible to do so - later, I believe Messrs Braun and Blanchard of Chile made an offer to work the wreck as they expected success in the undertaking by using a steamer for the work, but apparently the F. Is. Co. refused to negotiate.

*M. Brauer Harkness*  
Actg. Receiver of Wrecks.  
Augt 22nd 1919.

Subsequent Paper.

No further action necessary. Papers can be filed.

23.8.19

*M. J.*  
/

701/20

See also S.O. 253/19. See also 1919.

H.C.S.

In view of minutes of solicitor of Board of Trade herein  
~~will you please enquire from F.I. Company~~  
with reference to the enclosing summary of the para  
# 3 of the letter of 27<sup>th</sup> Oct 1920 what progress  
has been made with the removal of the cargo of  
the Bague Botta for shipment.

*[Signature]*  
5 June 1921.

Letter to Manager of the Falkland Islands Co.  
dated 4th June 1921. - - - *[Signature]*

H.E. the Governor,

I was unable to get Your Excellency on the  
phone, but as I believed it was par:4 and not 3 to which reference  
was to be made in the F.I.C's Lr: of 27/10/20, I have venture  
to so state it in the Lr; of 7/6/21.

*[Signature]*  
A. C. S. 8/6/21.

Letter from Manager, F.I. Co, dated 8th June 1921.....Encl:(3)  
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H.E. the Governor,

Submitted.

*[Signature]*  
A. C. S. 9/6/21.  
*[Signature]*  
9 June 1921.

Receiver of Wrecks,

For your information.

*[Signature]*  
A. C. S. 10/6/21.

Hon. Col. Sec.

Noted  
M. Frankie Harker  
a/c Rec. of Wrecks  
10.6.21

*[Signature]*  
22/1/30.



(3)

C.S. 6524

554/18.

7th June,

21.

Sir,

With reference to the concluding sentence of paragraph 4 of your letter of the 27th October, 1920, I am directed by the Governor to enquire what progress has been made with the removal of the cargo of the barque "Bertha" for shipment or otherwise.

I am,

Sir,

Your obedient servant,

W. A. THOMPSON,

Acting Colonial Secretary.

The Manager,

The Falkland Islands Company, Limited,

Stanley.

Reference to previous correspondence :- 554/19.  
Governor's despatch No. 102 of 3rd October, 1918.

FALKLAND ISLANDS.

No. 48.

*For C.S.O.  
W.S.  
Car  
19.8.19*

Downing Street,  
11th March, 1919.



Sir,

I have the honour to transmit to you the paper noted below on the subject of the wreck of the Danish Barque "Bertha" on East Falkland in the year 1892.

I have, etc.,

(Sgd) MILNER.

The Officer Administering  
the Government of  
the Falkland Islands.

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Date	Description
1919. 25th February.	From the Board of Trade.

PUBLIC UTILITIES AND HARBOUR DEPARTMENT,  
BOARD OF TRADE,

7, WHITEHALL GARDENS, LONDON, S.W.1.

25th February, 1912.

P.U.H. 309.

Sir,

With reference to your letter of the 14th January last (No. 65191/1912) forwarding a copy of a further despatch from the Governor of the Falkland Islands respecting the wreck on East Falkland of the Danish Barque "Bertha", I am directed by the Board of Trade to transmit herewith, for the information of Lord Milner, a copy of the Minute by their Solicitor in the matter.

I have, etc.,

(Sd) Garnham Roper.

The Under Secretary of State,  
Colonial Office,  
S.W.1.

Copy.

MEMORANDUM

BOARD OF TRADE

From

To

Solicitor's Department

H. Department.

12th February, 1912.

Wreck of the Danish Barque  
"Bertha" on East Falkland.

I think in this case the Governor was sufficiently notified or aware of the sale of the wreck in 1892 to the Falkland Islands Company and so is unable to say that it was unclaimed wreck at the date of sale. The Owner apparently came along and passed his title to someone else, but the wreck has remained where it came ashore since then, and except for the fact that some logs have recently come ashore, nothing appears to have happened to alter the condition it was in (but for mere deterioration) since the date of the sale. If the wreck is doing no harm where it is and is not an impediment to navigation, the Governor may decide to leave it alone. If on the contrary there is good reason, either by its being an impediment to navigation or for some other good and sufficient cause, to say that it is in the nature of a nuisance, the Governor may prefer to take the following action: give a notice calling upon the Company who he understands are the owners of the wreck to remove it, for the good grounds which he may assign, and failing their removing it within a given time, (a time limit should be fixed) take action against them to compel them to remove it on the ground that it is lying on soil belonging to the Crown and is otherwise a nuisance or impediment to navigation or in some otherwise an obstruction (but not merely an eyesore). The notice should state that failing removal the Crown will have to consider whether it may not have to take some action against the Company. I think the proceedings would be unusual but we have stopped a deposit of dredging in a Scottish loch on the ground that the soil belonged to the Crown and that the deposit was a nuisance. If on the contrary the wreck is of some value and the Governor can see his way to make money out of it, he can ask the Company whether they still claim the wreck as theirs, and if they say they do not, he could set to work to sell it, putting on the purchaser a stipulation that he should remove it within a given time, or else set to work to remove it himself. But the moment the wreck becomes unclaimed wreck, whether by no claim being put forward or by abandonment of any claim, the Crown, though nobody can force it to move in the matter, is exposed to criticism if unclaimed wreck which belongs to the Crown does form an impediment to navigation or otherwise an obstruction if the Crown does not cause it to be removed. I have to advise on hypothetical cases because I really do not know the facts, but with these expressions of opinion it may be possible for the Governor to take some action if action is desirable. If it is decided to assert the Crown's title to the wreck on the abandonment by the present owners of their claim, the Receiver had better take possession of it by some formal act, such as going on board and in the presence of a witness stating that he takes action on behalf of the Crown, and it may be thought advisable that he should advertise the fact that he has done so. I am not dealing with the point - which is rather a fine one - whether the wreck having lain for 27 years on Crown soil without the owners attempting to remove it has not become vested in the Crown by effluxion of time, but I know of no doctrine whereby it can be said that the owner of land is bound unless it becomes a danger or nuisance to other persons to assume the property in or control over

over something lying thereon which did not originally belong to him, against his will, though he can undoubtedly assert his title to it after it has lain there a certain time and except in the case of a wreck - which has to be dealt with under Statute - can possibly at once call upon the owner to remove the same as an obstruction or nuisance. Take for instance the case of the owner of an aeroplane which fell upon my land and the owner of which would not remove it. I could require him to remove it on the ground that it was an obstruction. Section 530 et sequitur of the Merchant Shipping Act 1894 gives certain powers to local and other bodies as to removal of wrecks which are an obstruction or danger to navigation or life-boats, but I do not know whether the provisions of the Section are capable of being put into operation in the Falkland Islands.

(Intd) R.E.C.

3

COLONIAL  
SECRETARY

The Falkland Islands Company, Limited,  
Stanley,

8th June, 1921.

554/19.

Sir,

In reply to your letter of yesterday's date on the subject of the "Bertha" wreck I beg to inform you that the timber carriage arrived from England in the s.s. "Bogota". One wheel was, however, over-carried in the steamer and was returned in the s.s. "Duendes" at the end of February.

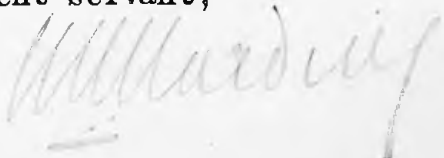
Since that date our labourers have been fully occupied on the current work in Stanley, but I hope to be able to send men out in the spring to the wreck to transport the logs to Mare Harbour which is the nearest port from which they could be shipped.

The winter months are quite unsuitable for work of this nature as there is no habitation or shelter within some miles of the scene of the wreck.

I am,

Sir,

Your obedient servant,

  
Manager.

The Honourable

The COLONIAL SECRETARY.