

duly licensed; but once licensed the pilot had to make his own bargain with the shipowner, and would incur in that contract of pilotage only his own personal liability for the due performance of his duty. The statute and the rules made under it seem carefully worded, so as to exclude the notion that the Harbour Board in its corporate capacity is acting as pilot for the vessels frequenting the harbour, and their Lordships are of opinion that what is not permitted to the Harbour Board under the statute is prohibited; they are not therefore authorised to pledge public funds for the purpose of entering into private engagements, and cannot be held responsible for the default of their Harbourmaster, who, in fact, was acting as pilot for the vessel not in the view their Lordships take of the facts as Harbourmaster, but as pilot engaged by the parties themselves, and who was only himself personally liable for acting in the capacity of pilot, though he happened to fill the character of Deputy Harbourmaster at the same time.

The facts of the case are peculiar in this respect: that the transaction in question was out of the ordinary course of duty in more aspects than one. It would be intelligible that the Harbour Board should with their own tug and Harbourmaster aid vessels entering or departing from the harbour, having taken care that both their Harbourmaster and the appliances at his command were sufficient for the purpose of effecting the object desired. In this case, the tug-boat (by which the Harbour Board were in the habit of assisting vessels as they did) was out of repair; the parties, at their own risk, appear to have employed a steam tug not the property of or habitually under the command of the Harbourmaster. And, when it is remembered that the accident itself happened partly by reason of the inappropriateness of the steam-tug employed for the purpose, it is not an unimportant topic for consideration that even the ordinary practice of the Harbour Board, whether authorised or not by law, was not the practice in following which this accident happened, but the error of the pilot in attempting to conduct an operation by a vessel not used by the Harbour Board, and inappropriate for the purposes for which it was selected by the parties now complaining.

Their Lordships, however, are of opinion that, even had the misfortune happened in the use of the steam-tug according to the ordinary practice, and by the person who, as a matter of fact, was the Harbourmaster, the Harbour Board had no authority to enter into such a contract, as they were not entitled by statute themselves to become pilots, but only to license others for that vocation.

Their Lordships will, therefore, humbly advise Her Majesty that this appeal should be dismissed, and that the judgment of the Court of Appeal of New Zealand should be varied by entering judgment for the defendants, and that the appellants pay the costs of the suit and of this appeal.

No. 16.

(Circular.)

SIR,—

Downing Street, 27th June, 1890.

H.-10, 1890.

I have the honour to transmit to you, for communication to your Government, copies of a memorandum which has been prepared by the Colonial Defence Committee at my request, and that of the Secretary of State for War, on the reports recently drawn up by Major-General Edwards in regard to the defences of the Australasian Colonies.

It will be seen that, except in regard to a few matters relating to individual colonies, the Colonial Defence Committee concur generally in Major-General Edwards's recommendations. As to the broad principles which should guide the Australasian Colonies in fixing the standard of their defences, however, the Committee, with full knowledge of the resources of other Powers, are unable to accept the point of view from which the inspecting officer appears to regard the military requirements of this portion of the Empire.

It is of the utmost importance that clear and definite views as to the nature of these requirements should be arrived at. Failing this, no proper scale of defence can be laid down, and expenditure wasteful, because misdirected, is inevitable.

In recommending this memorandum to the careful consideration of your Government, I desire to point out that the Colonial Defence Committee is specially charged with considering the larger questions of Imperial defence, that its chairman is the Inspector-General of Fortifications, and that the Directors of Naval and Military Intelligence, as well as officers representing the departments of the Adjutant-General and of the Director of Artillery, are members. The Committee has thus at its disposal all the available information in regard to the strength and resources of foreign Powers, and its views therefore will naturally have due weight with the Australasian Colonies.

While as regards purely local matters the colonial Governments will doubtless be disposed to accept the opinions of the commandants of their forces, who are their military advisers upon the spot, I may point out that these officers were selected in regard to their qualifications for the purposes of special duty