

Act, 1896," I am directed by the Board of Trade to state that they have given their special consideration to the minute submitted by the Premier of New Zealand, a copy of which was enclosed in your letter of the 8th February.

This minute deals with those provisions of the Act which formed the subject of a memorandum by the solicitor to the Board of Trade (enclosed in the Board's letter of the 12th April, 1897), and which, it was represented, were open to objection by reason of their application, as it appeared, to other vessels besides those employed in the New Zealand coastal trade.

The Board of Trade now desire me to transmit to you, to be laid before Mr. Secretary Chamberlain, a copy of a further memorandum by their solicitor, in which the apparent intention and application of these provisions is discussed in connection with the explanations given by Mr. Seddon.

I have, &c.,

The Under-Secretary of State, Colonial Office.

WALTER J. HOWELL.

Sub-enclosure.

MEMORANDUM OF SOLICITOR TO BOARD OF TRADE.

I HAVE found it necessary to deal with this case not merely on its own particular facts, but as raising important general questions regarding the limits within which colonial legislation may legally and properly operate. I have also been assisted by prolonged discussion with counsel after he had mastered the papers.

The whole matter is difficult and complicated. The New Zealand Act in question purports, by short cuts, to amend the previous Merchant Shipping Acts of the colony, and involves a great number of references both to those Acts and to Imperial Acts relating both to merchant shipping as well as to the special and general legislation in the United Kingdom regulating the field of colonial laws in relation to our own.

The matter is further complicated by the extreme difficulty of ascertaining to what particular vessels the particular clauses of this Act are intended to apply, owing mainly to the vague and indirect manner in which the New Zealand Act has been framed.

Finally, we are met with the difficulty that the New Zealand authorities apparently attach a different meaning from our own to certain expressions in the Act, and there is therefore an absence of common ground between us in attempting to grapple with the questions raised for consideration.

The New Zealand Act in question deals with several different subject-matters:—

(1.) Sections 2 and 4 to 6 may be said roughly to provide for an extension of the existing provisions of the New Zealand Acts (hitherto similar to the Imperial Act) by providing for third-class engineers certificates of competency, and making other provisions with regard to engineers and their status.

(2.) Sections 7, 8, and 9 provide a scale of the number and qualifications of engineers required to be carried in steamships, for the ventilation of steamships, and the accommodation of engineers on board.

(3.) Sections 10 and 11 relate to the rate and recovery of wages applicable to "any ship."

(4.) Section 18 relates to undermanning.

There are other general provisions which seem unobjectionable.

1. First, with regard to sections 2 and 4 to 6: The Premier's explanation of the scope of these sections is satisfactory as far as those enactments in themselves are concerned, subject, however, to the question which underlies the whole discussion, "How will the new provisions affect British ships sailing from the United Kingdom, or another colony, on a round voyage, and touching at more than one port in New Zealand before returning to the United Kingdom or the colony as the case may be?" The Premier observes that the operation of sections 4 to 6 is limited by sections 7 to 9.

As those sections do not contain any express reference to sections 2 and 4 to 6, I presume that Mr. Seddon contends that the provisions of section 2 and 4 to 6, relating to qualifications, &c., of third-class engineers, are local, because they are merely auxiliary to and lead up to the provisions of section 7, laying down a scale of requirements as to the number of engineers for foreign-going steamships and sea-going home-trade steamships "going to sea from any port in the colony"; while section 9 expressly declares that section 7 shall not apply to foreign-going steamships trading beyond the limits "prescribed" in the case of intercolonial ships—that is to say, trading between New Zealand and any other Australian colony, including Tasmania.

The real difficulty in the case of ships coming from the United Kingdom or non-Australian Colonies arises with respect to the meaning and application of the words "foreign-going steamships when within the limits prescribed in the case of intercolonial ships," quoted from section 9.

2. Next, with regard to sections 7 to 9: Section 7 prescribes the number of engineers to be carried, according to a detailed scale set forth in the Schedule to the Act; section 8 makes provision for the ventilation of engine-rooms, &c., and the accommodation of engineers; while section 9 defines the application of both those sections.

To dispose first of section 8: The Premier remarks that it only applies "to ships registered in the future in the colony," and all difficulty will be removed if such limited application be made quite clear by inserting in the first line of section 8, after the word "registered," the words "in New Zealand."

Then, with regard to section 7: The Premier states that by section 9 the application of those enactments is limited to foreign-going steamships trading within the limits prescribed in the case of intercolonial ships. This observation would also be satisfactory, so far as ships sailing from the United Kingdom are concerned, if by the words "trading within the