

## Enclosure.

In consequence of the amendments to the Merchant Shipping Acts, 1854 and 1862, introduced in 1879, 1882, and 1894, several sections of "The Shipping and Seamen's Act, 1877," are no longer in harmony with Imperial legislation.

By "The Merchant Shipping Act, 1876," power was given to the Courts to inquire whenever any ship had stranded on or near the coasts of the United Kingdom, and it was enacted that all the provisions of the Merchant Shipping Acts 1854 to 1876 should apply to any such inquiry. In 1878 (*Ex parte Story*, 3 Q.B.D. 166) the question came before the High Court of Justice, and it was held that the power of cancelling or suspending a certificate was not extended by "The Merchant Shipping Act, 1876," and in order to enable the Court to deal with a certificate the case must be brought within the 242nd section of "The Merchant Shipping Act, 1854"—*i.e.*, a ship must have sustained serious damage.

In consolidating the various Merchant Shipping Acts, including those of 1854, 1862, and 1876, effect was given to the decision of the High Court, and it will be observed that before the certificate of a master, mate, or engineer can be cancelled or suspended, the Court must find that the loss or abandonment of or serious damage to any ship, or loss of life, has been caused by his wrongful act or default.

The Court or tribunal holding an inquiry in a British possession has only the same powers of cancelling or suspending certificates as a Court holding a similar inquiry in the United Kingdom, and in these circumstances if the certificate of the master of the "Ruapehu" was an Imperial one, or one of equal validity, on appeal to the High Court in England the suspension would have been held to be invalid. ("Merchant Shipping Act, 1894," sections 102 (ii.), 470 (a), 478 (5).)

The following sections of the Shipping and Seamen's Act are not in harmony with the provisions of "The Merchant Shipping Act, 1894":—

Section 119: This section requires an inquiry into incompetency or misconduct to be conducted in the same manner, and with the same powers, in and with which formal investigations into shipping casualties are conducted. The language follows that of section 471 of the Act of 1894, and whilst it implies that Assessors should be appointed, no provision is made for appointing them. Inquiries of this nature are not therefore remitted to Courts of Summary Jurisdiction, but they are invariably held by local Marine Boards with a legal assistance. Nautical Assessors are not therefore required.

Section 120: The words in the latter part of subsection (5) of section 242 of "The Merchant Shipping Act, 1854," were repealed by "The Colonial Inquiries Act, 1882," and confirmation by the Governor of a report or sentence of a Court is no longer required.

Section 122: A master, mate, or engineer, is not required to deliver up his certificate until it has been cancelled or suspended.

Section 237: The jurisdiction conferred upon the Court is not fully set out as in section 478 of the Merchant Shipping Act.

Section 240: The Court should be required to send a full report with the evidence to the Board of Trade.

Section 241: When a formal investigation into a shipping casualty involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, mate, or engineer, it is desirable that provision should be made for the appointment of not less than two Assessors having experience in the merchant service.

Section 243: A master, mate, or engineer, is not now required to deliver up his certificate until it has been cancelled or suspended.

Section 244: The confirmation of the report or sentence by the Governor is not required.

Having regard to the fact that the provisions above referred to apply to certificates of competency granted by the Board of Trade and British possessions under the provisions of "The Merchant Shipping Act, 1894," it appears to be necessary to amend the sections above referred to in order to give effect to the provisions of the latter statute based upon the decision before referred to.

The fact that the jurisdiction of Courts of inquiry, in regard to cancelling or suspending certificates, may be exercised over all certificates of competency granted under "The Merchant Shipping Act, 1894," tends to show that it is important to amend those sections of the Shipping and Seamen's Act above referred to, so as to bring them into harmony with the provisions of Imperial legislation at the earliest opportunity in order to avoid appeals upon technical grounds from the decisions of the Courts.

The Board of Trade would therefore urge that, if possible, effect may be given to the suggestions contained in Mr. Murton's memorandum in regard to those inquiries without waiting until an opportunity offers for the consolidation of the New Zealand Shipping Acts.

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No. 2.

(Circular.)

SIR,—

Downing Street, 7th February, 1899.

Adverting to the Conference on postage within the British Empire, which was held in London in June and July last, I have the honour to transmit to you, for the information of your Government, the accompanying copy of a Treasury warrant, dated the 22nd of December, 1898, containing a list of those British possessions and protectorates which adopted the Imperial penny letter-rate per  $\frac{1}{2}$  oz. on Christmas Day, to which list the Protectorate of Zanzibar should now be added.