

No. 117.

New Zealand, No. 8.

MY LORD,—

Downing Street, 13th January, 1911.

I have the honour to acknowledge the receipt of your despatch, No. 150, of the 1st December last, forwarding copies of an Act, No. 15 of 1910, of the Parliament of New Zealand entitled "The Crimes Amendment Act, 1910."

2. I take this opportunity of asking that a certified copy of each Act of Parliament should be forwarded to me as soon as possible after it has received your assent.

I have, &amp;c.,

L. HARCOURT.

Governor the Right Hon Lord Islington, K.C.M.G., D.S.O., &amp;c.

No. 118.

New Zealand, No. 9.

MY LORD,—

Downing Street, 13th January, 1911.

I have the honour to acknowledge the receipt of your despatch, No. 147, of the 25th November, transmitting copies of the Seamen and Shipping Amendment Act, 1910, which has been reserved for the signification of His Majesty's pleasure.

2. Two questions of great importance are raised by the terms of this Act. The first is the question of the legislative power of the Parliament of New Zealand with regard to merchant shipping, and especially the relations of the legislation of New Zealand on this subject to the legislation of the Commonwealth. It is proposed by the Act to require that seamen employed in ships plying or trading from New Zealand to any port within the Commonwealth of Australia, or from New Zealand to the Cook Islands, shall be paid and may recover the current rate of wages for the time being ruling in New Zealand. As far as this section deals with vessels trading between New Zealand and the Cook Islands, His Majesty's Government do not propose to take exception to its provisions; such trading may be held to be a matter of coasting trade, and to fall within the scope of New Zealand legislation as contemplated in the resolutions of the Merchant Shipping Conference of 1907.

3. Other considerations apply to ships trading between New Zealand and the Commonwealth of Australia. The legislation proposed goes beyond the limits of the legislative power of New Zealand as laid down with the consent of your Prime Minister at the Conference of 1907, and the power which it is proposed to exercise does not appear to be warranted by any provisions of the Merchant Shipping Act of 1894. Moreover, I would point out to your Government that, under section 5 of the Commonwealth of Australia Constitution Act of 1900, the laws of the Commonwealth are in force on all British ships, the King's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth. Those provisions as interpreted by the High Court of the Commonwealth (see 5 Commonwealth Law Reports, 737) apply to vessels which trade from one port in the Commonwealth on a round voyage to New Zealand and return to the Commonwealth; the wages payable on such ships fall therefore to be regulated by the legislation of the Commonwealth, and it would appear that legislation in New Zealand if applied to such vessels would run directly counter to the legislation of the Commonwealth, which, being given validity by the express terms of section 5 of the Constitution Act, might be held to override New Zealand legislation.

4. The other objection is based on a matter which is not peculiar to merchant shipping legislation, but which depends on the obligations of the Imperial Crown to the British Indian subjects of the King and the relations of the British Empire with foreign countries. It is proposed by the Bill to increase by 25 per cent. the duties levied on passenger tickets and bills of lading or shipping documents issued in New Zealand in the case of ships trading between New Zealand and the Commonwealth, or between New Zealand