

(No. 2.)



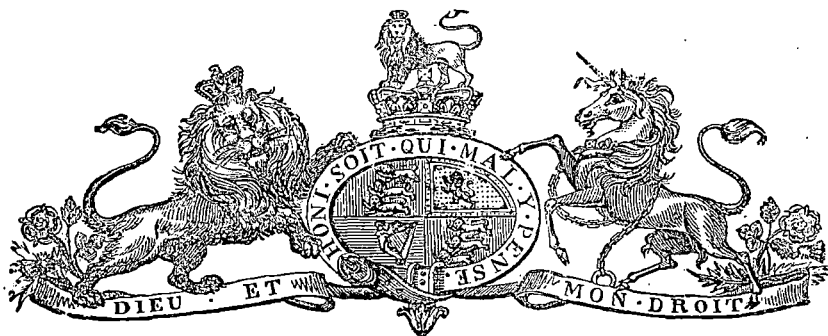
1860.

T A S M A N I A.

FOREIGN SEAMEN ACT.

EXTRACT FROM A DESPATCH (No. 15, March 1st, 1860) FROM HIS
GRACE THE DUKE OF NEWCASTLE.

Laid on the Table by Mr. Attorney-General, and ordered by the House to be
printed, 25 July, 1860.



*EXTRACT from the Despatch of His Grace the Duke of NEWCASTLE,
No. 15, dated 1st March, 1860.*

I REFERRED for the consideration of the Lords of the Committee of Privy Council for Trade the Act, No. 8, "For the control of Seamen belonging to Foreign Ships;" and I enclose for your information an extract of their reply, together with copies of the Correspondence relating to a similar Act passed by the General Assembly of New Zealand to which it refers.

You will observe that their Lordships entertain the same objection to the 5th Section of the Act of your Government (No. 8) as that which was taken by the Law Officers of the Crown to the 2nd Section of the New Zealand enactment; and I have to instruct you to endeavour to procure the introduction of the required amendments; as, in the event of their own not being adopted, it will become necessary to advise Her Majesty to disallow the Act.

[Enclosures.]

*EXTRACT of a Letter from Mr. BOOTH to the Under-Secretary Colonial Office, dated
Office of Privy Council for Trade, Whitehall, 8th February, 1860.*

"WITH regard to the Act, No. 8, their Lordships desire me to request that you will state to the Duke of Newcastle that the 5th Section of this Act is open to the same objection as that which was pointed out by the Law Officers of the Crown to the 2nd Section of an Act of New Zealand (21-22 Vict., No. 14), and which formed the subject of the letter from this Board to the Colonial Department of the 19th day of January, 1859, and of subsequent correspondence; and my Lords presume that the Duke of Newcastle will adopt the same course with respect to this Act as that which he may think it right to take with regard to the Act of New Zealand."

Mr. BOOTH to Mr. MERIVALE.

(COPY.)

*Office of Committee of Privy Council for Trade,
Whitehall, 19th January, 1859.*

SIR,

WITH reference to Mr. Elliot's letter of the 29th November last, transmitting, for the consideration of my Lords, a copy of an Act of the Legislature of New Zealand, entitled "An Act to prevent Desertion and other Misconduct of Seamen belonging to Foreign Ships," I am directed by the Lords of the Committee of Privy Council for Trade to transmit to you a copy of a letter received by their Lordships from the Foreign Office, dated the 15th instant, on the subject of that Act, pointing out an amendment of the 2nd Clause of the Act which is recommended by the Law Officers of the Crown to whom the Act was submitted by Lord Malmesbury. Whilst concurring in that recommendation, my Lords direct me to request that you will state to Sir E. B. Lytton that it appears to their Lordships desirable that, on any occasion when the amendment of the Act may be under consideration, attention should be called to the penal Clauses of the Act, which appear to their Lordships to be of a character unusually severe.

I have, &c.,

(Signed) JAMES BOOTH,

HERMAN MERIVALE, Esq., C.B.

The Act is herewith returned,

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Mr. HAMMOND to Mr. BOOTH.

(COPY.)

Foreign Office, 15th January, 1859.

SIR,

I AM directed by the Earl of Malmesbury to acquaint you, for the information of the Lords of the Committee of Privy Council for Trade, that he referred to the Law Officers of the Crown for consideration the Act of the Legislature of New Zealand, entitled "An Act to prevent Desertion and other Misconduct of Seamen belonging to Foreign Ships," of which a printed copy was enclosed in your letter of the 2nd ultimo.

The Law Officers state that the Act is unobjectionable, except as to the provision which they have marked by brackets in Section 2, page 56,—that a Seaman apprehended under the Act may be taken at once on board the Ship, unless he require to be taken before a Magistrate. Seeing that any such requisition, if made, may be disregarded with impunity, the Law Officers think the Clause as it stands would invest a Constable with a very dangerous power; and that the Act should be amended by the omission of the two passages within brackets, so that in all cases the Seaman apprehended should be taken before a Magistrate.

The printed copy of the Act is herewith returned.

I am, &c.,

(Signed) E. HAMMOND.

J. BOOTH, *Esq.*

EXTRACT from New Zealand Act, 21 & 22 Vict., entitled "An Act for preventing Desertion and other Misconduct of Seamen belonging to Foreign Ships," passed 26th June, 1858.

Also without
warrant.

Omit para-
graphs within
brackets.

II. The Master of any such Ship may require any Constable, who is thereupon hereby authorised, without first procuring a warrant, to apprehend any such Seaman so deserting, absenting himself, neglecting, or refusing to join, or refusing to proceed to Sea as aforesaid, and such Constable shall thereupon [if such Seaman requires it] convey him before a Justice of the Peace capable of hearing the complaint, to be dealt with according to law, [or if he do not so require, shall convey him on board the Ship to which he may belong with all convenient speed:] Provided that, if such apprehension be made on improper or insufficient grounds, the Master who caused the same to be made shall be liable to a penalty not exceeding Fifty Pounds.