

CANADA.

(No. 603.)

To the Lords of the Committee of Privy Council for Trade.

Mr. Northcote having by his letter dated the 10th ultimo, with reference to our reports of the 19th of June and 4th of September last, on the subject of the navigation of the St. Lawrence by vessels of the United States, signified that he had been directed by your Lordships to state to us that your Lordships perceive that the objections taken by us to a compliance with the desire of the Canadians for the opening of the traffic between Fort Covington and Lake Champlain through the St. Lawrence to American vessels have reference to that part of the navigation which lies between Lake Champlain and Montreal, and that your Lordships observe that it is stated in the despatch of the Governor-general, that the opinion of the law officers in this country had been given, to the effect that American vessels are wholly excluded from navigating the St. Lawrence below Montreal, an opinion in which, from the reports before your Lordships, you conclude that we agree, but that your Lordships do not perceive any thing in the Act for regulating the trade of the British possessions which should prevent American vessels from proceeding from the Lake Champlain either to Montreal or Quebec, under the provisions of the 43d section of the Act, and that it was your Lordships desire that we should state whether there is any impediment to such a voyage, arising either from the phraseology of the Act, or from other circumstances, and whether we are aware of any such opinion as that referred to having been given by the law officers, and what were the grounds of such opinion. Mr. Northcote having further signified that he had been directed to inquire whether, supposing American vessels to be permitted to trade between Lake Champlain and Montreal, it would not be legal for them to warehouse their cargoes at Montreal (under the 48th section of the Possessions Act), and thence to re-export them to any American port by inland navigation, since the restrictions upon exportation imposed by the Customs laws appear only to apply, first, to the case of the exportation of goods from one British possession to another, which can only take place in British ships; and secondly, to exportation of goods to foreign countries by sea, which can only take place from a free port. Mr. Northcote having also signified your Lordships desire that we would, if the views taken by your Lordships in the above point are correct, state whether they in any manner affect the opinion given in our report of the 4th of September as to the inexpediency of complying with the suggestion of the Governor-general of Canada.

In obedience to your Lordships commands, we report,—

That we have again most carefully considered the question that formed the subject of Earl Cathcart's despatch to Her Majesty's Principal Secretary of State for the Colonies, which despatch your Lordships had been pleased to refer to us in the month of June last, and before we proceed to report upon the several points more particularly adverted to in Mr. Northcote's letter of the 10th of October 1846, we are desirous of offering some further observations for the consideration of your Lordships in support of the views entertained in our report of the 4th September last, No. 464, as to the inexpediency of acceding to the suggestions of the Governor-general of Canada. We would in the first place observe,—

That by the prerogative of the British Crown, foreign vessels are restricted from the free navigation of the rivers of the British possessions in America, and that the right of navigating those waters has been exclusively reserved to British ships, except in cases where that right may have been expressly granted by Act of Parliament or by treaty to foreign shipping; and so jealous has the legislature been of allowing as a general measure foreign shipping to participate in our inland and coasting trade, that the 10th section of the Navigation Act of the 8 & 9 Victoria, c. 88, has expressly enacted, that no goods shall be carried from any British possession in Asia, Africa or America to any other of such possessions, nor from one part of any of such possessions to another part of the same, except in British ships.

With respect to the particular instance of the River St. Lawrence, we have to observe that, as an abstract measure, it has been the invariable policy of this country to exclude the Americans from navigating up the St. Lawrence; the Act of the 28th Geo. 3, c. 6, s. 14, passed in the year 1788, having expressly enacted that no goods whatever should be imported from any of the territories belonging to the United States of America by sea or coastwise into the province of Quebec, or the countries or islands within the government thereof, or up the St. Lawrence from the sea, under the penalty of the forfeiture thereof. This Act was modified by the 30th Geo. 3, c. 8, which empowered the Governor of Quebec in cases of emergency to authorize the importation for a limited period by sea or coastwise into the province of Quebec, or up the St. Lawrence, of certain enumerated articles from the territories of the United States for the use of the inhabitants of that province, with a distinct provision, however, that such articles should not be imported except by British subjects and in British ships owned by Her Majesty's subjects, under the penalty of the forfeiture thereof. At subsequent periods exceptions were made by the legislature from the general established and recognized principle, which excluded the Americans from trading with the province of Quebec, and at the same time the regulations and restrictions under which they might carry on an inland trade with Canada were more clearly defined; for the present purpose it will be only necessary to advert to the Act of 3 Geo. 4, c. 44.,
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