

— No. 25. —

(M. 3855.)

Board of Trade to Colonial Office.

Board of Trade, Whitehall Gardens,

16 March 1876.

Sir,

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 4th instant, relating to the restrictions placed upon Canadian shipping by Imperial legislation, in which you state that, although Lord Carnarvon recognises the difficulties which would arise from the treatment of Canadian vessels as foreign vessels in British ports, his Lordship cannot but feel pressed by the arguments brought forward by Canada for placing the same restrictions on foreign vessels as upon colonial vessels in British ports.

While admitting the form of the arguments advanced by the Canadian Government in support of their proposal, the Board of Trade think that the arguments against that proposal have still greater force; and they desire to call Lord Carnarvon's attention to the following observations:—

It is desirable to consider generally what are the limits within which international law and custom would permit Her Majesty's Government to interfere with foreign ships, and what would be the effect of their interference.

And, first, it may be observed, that while a foreign ship, when in our ports, is, as a general rule, subject to the municipal and ordinary criminal law, and also to the fiscal and police regulations of this country, she is even then, by custom and by comity, free from any interference with her own concerns, with the discipline, health, and provisions of her crew, and her whole internal management, the British courts do not meddle with her discipline; and although her sailors may in extreme cases bring a suit for wages in the superior courts, the jurisdiction is never entertained except in extreme cases, and then not without reference to the consul of the country to which the ship belongs.

It will thus be seen that the law of this country does not interfere with the foreign ship in any way or for any purpose which simply concerns her own interests, or the interests of those belonging to her; and that it interferes solely with a view to the interests of persons in this country who may be affected by the doings of the ship and her crew.

There are certain exceptions, or apparent exceptions, to this practice.

When a foreign ship carries emigrants from this country to America, the British authorities interfere to see that the same rules are adopted for securing the safety, health, and decency of the poor passengers as are adopted in the case of a British emigrant ship; and when the emigrant ship arrives in New York, the United States Government apply to the foreign ship, as well as to the United States ship, rules which have similar objects; but this apparent exception to the practice of non-interference really falls within the principles above laid down. It is because the foreign emigrant ship carries British subjects as emigrants, and because these emigrants are of a class who specially need protection, that the British Government specially interferes to protect them. And it is because American society would be injuriously affected by the introduction of a poverty-stricken, diseased, and demoralised set of emigrants that the United States Government interferes to see, so far as it can, that they are carried and landed with safety, decency, and order. At the same time it must be remarked that the vexatious annoyance which the conflicting regulations of the two countries have caused and are causing to British ships, and the negotiations still pending for some mutual agreement upon the subject, are warnings of the difficulties which are likely to arise from interference of this kind, even when it is amply justified by the circumstances.

The same ground may be taken as justifying the compulsory survey of a foreign passenger steamer carrying passengers between two places in the United Kingdom; and even this interference is not exercised in the case of a foreign steamer carrying passengers between this country and foreign ports.

Again, in the case of a foreign steamer bringing cattle to this country, we interfere for the purpose of seeing that diseased foreign cattle do not infect our cattle, and are not made food for the British public. The interference thus exercised is in effect based on the well-recognised principle of quarantine.

There are, no doubt, two recent Canadian cases which go further, viz., the

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