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MERCHANT SHIPPING LEGISLATION
(CANADA).

COPIES of all PAPERS and CORRESPONDENCE between Her Majesty's Government and the Government of the Dominion of *Canada* since 1 January 1875, in relation to IMPERIAL MERCHANT SHIPPING LEGISLATION as affecting SHIPPING registered in *Canada*; of all CORRESPONDENCE between the said Governments as to the EXEMPTION of CANADIAN SHIPPING from the Operation of IMPERIAL LEGISLATION; and, of all CORRESPONDENCE between the said Governments in relation to CANADIAN LEGISLATION for the Inspection of CANADIAN VESSELS; &c.

(*Mr. Norwood.*)

Ordered, by The House of Commons, to be Printed,
24 April 1876.

MERCHANT SHIPPING LEGISLATION (CANADA).

100

RETURN to an Address of the Honourable The House of Commons,
dated 17 March 1876;—for,

“COPIES of all PAPERS and CORRESPONDENCE between Her Majesty's Government and the Government of the Dominion of *Canada* since the 1st day of January 1875, in relation to IMPERIAL MERCHANT SHIPPING LEGISLATION as affecting SHIPPING registered in *Canada* :”

“Of all CORRESPONDENCE between the said Governments as to the EXEMPTION of CANADIAN SHIPPING from the Operation of IMPERIAL LEGISLATION :”

“And, of all CORRESPONDENCE between the said Governments in relation to CANADIAN LEGISLATION for the Inspection of CANADIAN VESSELS, and the extent to which Her Majesty's Government will accept Canadian Certificates as equivalent to Board of Trade Inspection and Certificates.”

Board of Trade, }
22 April 1876. }

T. H. FARRER.

(*Mr. Norwood.*)

Ordered, by The House of Commons, to be Printed,
24 April 1876.

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COPIES of all PAPERS and CORRESPONDENCE between Her Majesty's Government and the Government of the Dominion of *Canada* since the 1st day of January 1875, in relation to IMPERIAL MERCHANT SHIPPING LEGISLATION as affecting SHIPPING registered in *Canada*:—Of all CORRESPONDENCE between the said Governments as to the EXEMPTION of CANADIAN SHIPPING from the Operation of IMPERIAL LEGISLATION:—And, of all CORRESPONDENCE between the said Governments in relation to CANADIAN LEGISLATION for the Inspection of CANADIAN VESSELS, and the extent to which Her Majesty's Government will accept Canadian Certificates as equivalent to Board of Trade Inspection and Certificates.

— No. 1. —

The Earl of *Dufferin* to the Earl of *Carnarvon*.

Government House, Ottawa,
23 September 1874.

My Lord,
I HAVE the honour to transmit herewith a certified copy of the Statutes of Canada, passed during the last Session.

Acts not printed.

* * * * *

I have, &c.
(signed) *Dufferin*.

The Right Hon. The Earl of Carnarvon.

— No. 2. —

(M. 17,501.)

Colonial Office to Board of Trade.

Sir,

Downing-street, 29 December 1874.

I AM directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Board of Trade, the accompanying transcripts of three Acts passed by the Legislature of the Dominion of Canada, entitled, respectively,—

Returned.

No. 30. "An Act further to amend the 'Act respecting the Inspection of Steamboats.'"

No. 32. "An Act to provide for the appointment of Port Wardens at certain Ports of the Dominion."

No. 34. "An Act to provide for the appointment of Harbour Masters for certain Ports in the Provinces of Quebec, Ontario, British Columbia, and Prince Edward Island."

I am desired to request that you will move the Board of Trade to signify to this department their opinion whether these Acts may properly be allowed to remain in operation.

I am, &c.
(signed) *Julian Pauncefote*.

The Secretary to the Board of Trade.

P.S.—It is requested that the volume containing the Acts may be returned to this department with your reply.

The Earl of *Carnarvon* to the Earl of *Dufferin*.

My Lord,

Downing-street, 11 February 1875.

I REFERRED for the consideration of the Board of Trade, copies of the Acts, Nos. 30, 32, and 34 of the Parliament of the Dominion of Canada, which accompanied your Despatch, No. 238, of the 23rd of September 1874.

2. I have now to inform you that Her Majesty will not be advised to exercise Her power of disallowance with respect to the Act, No. 34 of 1874, entitled "An Act to provide for the Appointment of Harbour Masters for certain Ports in the Provinces of Quebec, Ontario, British Columbia, and Prince Edward Island."

3. With regard to the Acts Nos. 30 and 32, entitled respectively,

No. 30. "An Act further to amend the 'Act respecting the Inspection of Steamboats;'"

No. 32. "An Act to provide for the Appointment of Port Wardens at certain Ports of the Dominion,"

I transmit to you, for the consideration of your Ministers, an extract of a letter from the Board of Trade, in which certain grounds of objection are suggested to some of the provisions of these Acts, and I should be glad to be furnished with the views of your Government on the important points which are raised.

4. In the meanwhile I will defer tendering any advice to Her Majesty on the subject of these two measures.

Governor General the Right Honourable
The Earl of Dufferin, K.P., K.C.B.,
&c. &c. &c.

I have, &c.
(signed) *Carnarvon*.

Enclosure in No. 3.

EXTRACT of a LETTER from the Board of Trade to the Colonial Office, dated Board of Trade, 4 February 1875.

"WITH respect to No. 30, 'An Act to further amend the Act respecting the Inspection of Steam Boats,' the Board of Trade presume that it is only applicable to colonial vessels engaged on inland waters or in the coasting trade.

"If this is the case, they are of opinion that the Colonial authorities are the best judges of their own requirements. But should the provisions of the Act be intended to apply to other ships, British or Foreign, they would point out to the Earl of Carnarvon that considerable difficulties may arise. In the case of British vessels trading with the United Kingdom, these vessels are already subjected to regulations by the Imperial law, and it would produce much inconvenience and hardship if these vessels were subjected to fresh and different regulations in Canada. In the case of foreign ships, the difficulties would obviously be still greater.

"As regards No. 32, which is entitled 'An Act to provide for the Appointment of Port Wardens at certain Ports of the Dominion,' the Board of Trade observe that it imposes upon these Government officers the following, amongst other, duties:—

Sections 4, 5, and 6.

"1. Of examining all questions of damage to cargo, and of reporting on them.

Sections 7 and 8.

"2. Of examining all questions of damage to ships, and of determining absolutely what repairs are required to render a ship seaworthy.

Sections 9, 10, and 11.

"3. Of settling and absolutely controlling the stowage of grain cargoes.

Section 15.

"4. Of controlling the sale of damaged ships and cargoes.

Section 21.

"And in performing these duties they are to conform to the regulations of Lloyd's.

"The above-mentioned powers go much further than any which the Imperial Legislature has ever thought fit to intrust to any Imperial officials, and are at variance with the principles of the Report of the late Commission on Unseaworthy Ships.

"The Act transfers to the Government a responsibility which has till the present time rested on shippers, shipowners, and underwriters, and renders it impossible for the latter to complain, or take any steps on their own account, if wronged by the act or neglect of

of a Government official. Besides this, it incorporates in its provisions the fluctuating regulations of a private institution.

"It is further to be observed that, as this Act applies to ships which do not belong to Canada, and which trade between Canada and other countries, it will directly affect interests which are not purely Canadian."

— No. 4. —

The Earl of *Dufferin* to the Earl of *Carnarvon*.

Government House, Ottawa,
6 May 1875.

My Lord,

I HAVE the honour to transmit herewith a copy of an approved Minute of my Privy Council relating to the objections taken by the Board of Trade to some of the provisions of the Canadian Acts, 37 Vict. c. 30, entitled "An Act further to amend the Act respecting the Inspection of Steamboats," and the Act 37 Vict. c. 32, entitled "An Act to provide for the Appointment of Port Wardens at certain Ports of the Dominion."

The letter from the Board of Trade above referred to was enclosed in your Lordship's Despatch, No. 46, of the 11th of February last.

The Right Hon. the Earl of Carnarvon,
&c. &c. &c.

I have, &c.
(signed) *Dufferin*.

See ante, No. 3.

Enclosure in No. 4.

COPY of a REPORT of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council on the 5th of May 1875.

THE Committee of Council have had under consideration the Despatch from the Right Honourable the Earl of Carnarvon, No. 46, of the 11th February last, stating that the Act 37 Vict. c. 34, passed by the Parliament of Canada would not be disallowed, and transmitting a copy of a letter from the Board of Trade in which certain grounds of objection are suggested to some of the provisions of the Act 37 Vict. c. 30, entitled "An Act further to amend the Act respecting the Inspection of Steamboats," and the Act 37 Vict. c. 32, entitled "An Act to provide for the Appointment of Port Wardens at certain Ports of the Dominion."

The above-mentioned Despatch, with the letter from the Board of Trade, having been referred to the Honourable the Minister of Marine and Fisheries, that officer has made a Report, dated 1st May 1875, and hereunto annexed.

The Committee concur in the said Report, and submit the same for your Excellency's approval, and they recommend that a copy of this Minute and of said Report be transmitted to Her Majesty's Secretary of State for the Colonies.

Sub-Enclosure in No. 4.

MARINE AND FISHERIES, CANADA.

Ottawa, 1 May 1875.

THE undersigned has the honour to report to Council that he has had under consideration the Despatch from the Right Honourable the Earl of Carnarvon, No. 46, of the 11th February last, stating that the Act 37 Vict. c. 34, passed by the Parliament of Canada would not be disallowed, but transmitting a copy of a letter from the Board of Trade in which certain grounds of objection are suggested to some of the provisions of the Act 37 Vict. c. 30, entitled "An Act further to amend the Act respecting the Inspection of Steamboats," and the Act 37 Vict. c. 32, entitled "An Act to provide for the Appointment of Port Wardens at certain Ports of the Dominion."

With reference to the objections of the Board of Trade to the Act amending the Steamboat Inspection Act, that if intended to apply to British or foreign ships, much inconvenience and hardship would be produced, as such vessels would be subject to "fresh and different regulations in Canada," the undersigned would observe that the original Act respecting the inspection of steamboats, and for the greater safety of passengers by them,

(Enclosure No. 1).
Copy of the
Preamble and of the
41st Section of the
Act 33 Vict. c. 65.

33 Vict. c. 65, as will be seen by reference to the preamble and the 41st section of the Act, refers only to steamboats navigating the waters of the Dominion of Canada, or owned or registered in the Dominion of Canada, and departing from or arriving at any port or place in the Dominion of Canada, and only applies to such vessels when trading in Canadian waters. The Act will consequently not apply to British ships or foreign ships trading between Canada and the United Kingdom, or between Canada and foreign countries; but where British or foreign ships engage in the passenger coasting trade of Canada, such vessels will come under the operation of the Act, in order that due protection may be afforded to the lives of Canadians sailing in such vessels. The undersigned would also observe that the original Act, of which the Act objected to by the Board of Trade is only an amendment, was sanctioned a number of years since by Her Majesty, and has been found to work well, and without subjecting British or foreign vessels to inconvenience and hardship, and no complaints against the Act have been made by the owners or agents of such vessels. A copy of the original Act, with amendments thereto, is annexed hereto.

With reference to the objections made to the Act for providing for the appointment of port wardens, the undersigned would observe that the Act in question was taken from the Canadian Acts, 26 Vict. c. 52, 29 Vict. c. 59, and 36 Vict. c. 11, relating to the office of Port Warden at Montreal, which Acts were sanctioned by Her Majesty some years since, and have been found to be of great service in saving life and property, not only as respects Canadian vessels, but also as respects British ships. Previous to 1873, vessels laden with grain at Montreal could clear and go to sea without a certificate from the Port Warden by payment of a penalty of 40 dollars; but as several English steamers, laden with grain, which escaped by the payment of the small penalty referred to without a proper certificate, foundered at sea, and many lives were lost thereby, an amendment to the Act was prepared in 1873 by his department, submitted to Parliament, and became law, by which the clearing of vessels without a certificate from the Port Warden that the vessel had been properly loaded and stowed was prohibited, and a penalty of 800 dollars imposed on vessels sailing without such certificate. This Act was sanctioned by Her Majesty, and it has been productive of the greatest benefit, not only to shippers, but also to shipowners, underwriters, and crews of vessels, as no vessels loaded with grain, so far as his department is aware, have foundered or disappeared since the passing of the Act. The undersigned has been informed that a similar law is in operation at the port of New York and other grain-loading ports in the United States, and has been attended with like beneficial results to vessels engaged in the trade. It is probable that Imperial legislation of a similar character to that objected to in the present instance has not hitherto been required in the United Kingdom with reference to inspection of vessels loaded with grain, as that country, as a rule, is a consumer and not an exporter of grain. The undersigned would observe that the Act complained of is as nearly as possible a copy of the Montreal Act, which has been found to work so well, and he is of opinion that it is the duty of the Parliament of Canada, in the interests of humanity, to protect as far as possible the lives not only of Canadian mariners, but also of British and foreign seamen engaged in the grain-carrying trade of Canada, which requires much care and supervision in respect of stowage, and that it would be impracticable to make laws and restrictions in Canada for the safety of life and property at sea, as in the case of the Act objected to, and the deck-load law, to apply only to Canadian ships, while British and foreign vessels were exempted, as such a policy would have the effect of transferring the carrying trade of Canada from Canadian ships to British and foreign ships. If such vessels visit Canada to compete with Canadian vessels in the carrying trade, it would appear to be only reasonable that they should be required to submit to the same laws as Canadian vessels engaged in such trade, more especially as such laws are framed in the cause of humanity and for the benefit of all vessels alike.

The undersigned would also observe that the Acts and amendments relating to the Port Warden at Montreal, from which the Act 37 Vict. c. 32, was taken, were passed before the Report of the Commission on Unseaworthy Ships referred to in the letter of the Board of Trade was known here, and as the principles of the Act have been well tested by the Montreal Act on the subject, which was approved by Her Majesty, the undersigned is of opinion that the Act is in the interests of trade and commerce, and will conduce to the protection of life and property at sea. A copy of the rules and bye-laws of the office of Port Warden at Montreal, containing the substance of Acts and amendments relating to that office is annexed hereto for transmission to Her Majesty's Government.

Respectfully submitted,
(signed) *A. J. Smith*,
Minister of Marine and Fisheries.

(Enclosure No. 1.)

EXTRACTS from Act 33 Vict. c. 65.

Preamble.

For the greater security of life and property on board steamboats navigating the waters of the Dominion of Canada, or owned or registered in the Dominion of Canada, and departing from or arriving at any port or place in the Dominion of Canada, Her Majesty,

Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

41. This Act shall not apply to steamboats belonging to Her Majesty the Queen, nor to steamboats registered in Great Britain or Ireland, or in any foreign country, and plying between any port or place in the Dominion of Canada and any port or place outside of the Dominion of Canada. Section 41.

(Enclosure No. 2.)

RULES and BYE-LAWS of the OFFICE of PORT WARDEN of the HARBOUR of MONTREAL.

Approved, May 1874.

SUBSTANCE of ACTS and AMENDMENTS arranged consecutively for Convenience of PORT WARDEN.

26 Vict. c. 52.

WHEREAS the increasing trade of the city and business of the Harbour of Montreal renders the office of Port Warden necessary: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Office Created.

1. There shall be at the City of Montreal an officer who shall be designated the Port Warden of the Harbour of Montreal.

37 Vict. c. 33, s. 1.

Board of Examiners.—Appointment to Office.

2. The appointment to the office shall be made by the Governor in Council on the recommendation of the Board of Trade of Montreal, and the control of the office shall be in the Council of the Board of Trade of Montreal, which shall annually appoint a Board of examiners, five in number, who shall examine all candidates for the office of Port Warden, or such number of Deputy Port Wardens as the said Council may from time to time deem necessary for the business of the harbour, and upon the recommendation of the said examiners the Council shall make the appointments of such deputies.

26 Vict. c. 52.

Oath of Office.

3. The person so appointed to be Port Warden shall, before acting as such, take and subscribe the following oath of office before some justice of the peace for the district of Montreal, who is hereby empowered to administer the same, and who shall have the custody thereof:—

Form.

“I, A. B., do solemnly swear that I will faithfully and impartially, to the best of my judgment and ability, perform the duties of the office of Port Warden of the Harbour of Montreal, without fear, favour, or affection for any person or party whomsoever.”

Fees.

4. The Port Warden shall receive no fees whatever, other than such as strictly appertain to the business of his office; all such fees shall be recorded in his books, and he shall make a certified annual return to the said Council of the Board of Trade of the receipts and expenses of his office.

37 Vict. c. 33.

Removal for Misconduct.—Examiners to make Regulations.

5. The Port Warden, or any Deputy Port Warden, may be removed for misconduct or neglect of duty at the instance or discretion of the Council of the Board of Trade; and the said Board of Examiners shall make, and when they think it necessary, may repeal or amend all such rules and regulations or bye-laws for the guidance of, or to be carried out by, the Port Warden or any Deputy Port Warden as they may deem from time to time necessary, subject to the approval of the Council of the Board of Trade.

26 Vict. c. 52.

Port Warden's Office Books, &c.

6. The Port Warden shall, at his own expense, keep an office always open, on lawful days, from 9 a.m. till 6 p.m. during the season of navigation, and from 10 a.m. till 2 p.m. during the remainder of the year, and shall have a seal of office, and the necessary book, in which all his acts as Port Warden, and those of his deputies, with their fees of office, shall be recorded in such manner as the Board of Examiners shall direct.

Duty of Port Warden as to Stowage of Cargo, &c.

7. It shall be the duty of the Port Warden or his deputy, on being notified and requested by any of the parties interested, to proceed in person on board of any vessel for the purpose of examining the condition and stowage of cargo; and if there be any goods damaged on board such vessel, he shall inquire, examine, and ascertain the cause or causes of such damage, and make a memorandum thereof, and enter the same in full on the books of his office.

Duty of Masters of Vessels which have Broken Bulk before Arrival; and as to Vessels which have not so Broken Bulk.

8. The master of any vessel which has broken bulk for the purpose of lightening or other necessary purpose, previous to her arrival in the Harbour of Montreal, shall immediately on the discovery of any damaged cargo, proceed to hold a survey on the same in the manner herein prescribed, before the same shall be moved out of the place in which it was originally stowed; and if, after the arrival in port of any vessel from beyond the seas, which has not had occasion to lighten, break bulk, or otherwise discharge any portion of her cargo before coming into the harbour, the hatches of such vessel shall be first opened by any person not a Port Warden, and the cargo or any part thereof shall come from on board such ship in a damaged condition, these facts shall be *prima facie* evidence that such damage occurred in consequence of improper stowage or negligence on the part of the persons in charge of the vessel, and such default shall, until the contrary be shown, be chargeable to the owner, master, or other person interested as part owner or master of the said vessel.

29 Vict. c. 59, s. 5.

The penalty for any and every infraction or breach of the 8th section of this Act shall be the sum of 40 dollars. See Amendment, 29 Vict. c. 59, s. 5.

26 Vict. c. 52.

Inspecting Goods Damaged, &c.

9. The Port Warden shall, when required, proceed to any ship, steamer, or other vessel, warehouse, dwelling, or wharf, and examine any merchandise, vessel, material, produce, or other property, said to have been damaged on board of any vessel, and inquire, examine, and ascertain the cause of such damage, make a memorandum thereof, and of such property, and record in the books of his office a full and complete statement thereof.

Inspecting Vessels Wrecked or Damaged.—Assistants.

10. The Port Warden shall, when required, be surveyor on any vessel which may have suffered wreck or damage, or which shall be deemed unfit to proceed on her voyage; he shall examine the hull, spars, rigging, and all appurtenances thereof, shall specify what damage has occurred, record in the books of the office a full and particular account of all surveys held on such vessel; he shall call to his assistance, if necessary, in such survey, one or more carpenters, sail-makers, riggers, shipwrights, or other persons skilled in their profession, who shall each be entitled to a fee not exceeding two dollars for the first survey, and one dollar for each subsequent one on which their services may be required, to aid him in the examination and survey, but no such surveyor must be interested in the case; the Port Warden shall also, if required, be surveyor of the repairs necessary to render such vessels seaworthy, and his certificate that these repairs have been properly made shall be evidence that the vessel is seaworthy.

Surveys of Vessels and Cargoes.

11. The Port Warden shall have cognisance of all matters relating to the surveys of vessels and their cargoes, arriving in port damaged, and when requested shall, on payment of the regular fee, give certificates of such surveys.

37 Vict. c. 33.

Duty of Masters of Vessels taking Grain in Bulk.—Duties of Port Wardens as to such Vessels.

12. The master of any vessel intending to load grain in bulk, for any port not within the limits of inland navigation, shall, before taking in any of such grain, notify the Port Warden from time to time while the different chambers are being prepared, to survey and inspect

inspect the said vessel; the Port Warden in such case shall ascertain whether such vessel is in a fit state to receive and carry the cargo intended for her to its destination; he shall record in his books the condition of the vessel; if he finds she is not fit to carry the cargo in safety, he shall state what repairs are necessary to render her seaworthy; before beginning to load each chamber he shall be careful to see that such chamber is in a fit and proper state and condition to receive grain, and should he deem it necessary, he may order that such chamber be properly dunnaged and lined, and provided with shifting boards, or that the same be dunnaged, or lined, or provided with shifting boards; and he shall see that the boards and plank used for these purposes are properly seasoned; he shall examine the pumps and see that they are properly lined and dunnaged; he shall enter in the books in his office all particulars connected with these surveys and grant the necessary certificates.

His Duties as to Dunnage.

13. It shall be the duty of the Port Warden when required, to decide if any and what amount of dunnage is necessary below cargo, and also between wheat or other grain and the cargo to be stowed over it, and his certificate shall be *prima facie* evidence of the good stowage of the cargo so far as these points are concerned.

As to Seaworthiness of Vessels.

36 Vict. c. 11, s. 5.

14. The master of any vessel wholly or partly laden with grain for any port not within the limits of inland navigation shall, before proceeding on his voyage or clearing the Custom House for the same, notify the Port Warden, whose duty it shall then be to proceed on board such vessel and examine whether she is in a fit state to proceed to sea or not; if she is found unfit, the Port Warden shall state in what particulars and on what conditions only she will be deemed in a fit state to leave, and shall notify the master not to leave the port until the required conditions have been fulfilled, and in case of the master refusing or neglecting to fulfil the same, the Port Warden shall notify the collector of customs in order that no clearance may be granted for the vessel until such required conditions have been fulfilled, and a certificate thereof granted by the Port Warden or his deputy. *See Amendment of 1873, Section 5.*

36 Vict. c. 11, s. 1.

No officer of customs shall grant a clearance to any vessel wholly or partly laden with grain, for the purpose of enabling her to leave the Port of Montreal for any port not within the limits of inland navigation, unless nor until the master of such vessel produces to him a certificate from the Port Warden or his deputy, to the effect that all the requirements of the 12th Section of this Act have been fully complied with, if such grain be laden in bulk; nor unless nor until such master produces to him a certificate from the Port Warden or his deputy, that all the requirements of the 14th Section of this Act have been fully complied with, if such vessel be wholly or partly laden with grain, otherwise than wholly or partly in bulk; and if any vessel wholly or partly loaded with grain attempts to leave the Port of Montreal without a clearance, for any port not within the limits of inland navigation, any officer of customs or any person acting under the direction of the Minister of Marine and Fisheries, or the chief officer of the river police, may detain such vessel until such certificate is produced to him. *See Amendment of 1873, Section 1.*

26 Vict. c. 52.

Value or Measurement of Vessels.

15. The Port Warden shall, when required, estimate the value and measurement of an vessel when the same is in dispute or otherwise needed, and shall record the same in the books of his office.

26 Vict. c. 52. Amended by 29 Vict. c. 59, s. 5.

Auctioneers Selling Damaged Vessels or Goods to report to Port Warden.

16. It shall be the duty of every auctioneer making a sale of any vessel condemned, or ship's materials, or goods damaged on board a ship or vessel, whether seagoing or of inland navigation, sold for benefit of underwriters or others concerned, in the city of Montreal, to file a statement of the same at the office of the Port Warden within ten days after such sale; no underwriter's sale shall take place until after at least two days' public advertisement in not less than two English and one French newspaper in the city of Montreal, and such sales shall not be at an hour earlier than 12 nor later than three o'clock in the day. (The penalty for any and every infraction or breach of this section is 20 dollars. *See Amendment, 29 Vict. c. 59, s. 5.*)

26 Vict. c. 52.

Disputes between Masters and Consignees, &c.

17. It shall be the duty of the Port Warden, when required in writing, by all parties in interest, to hear and arbitrate upon any difficulty or matter in dispute between the master or consignee of any ship or vessel, and any proprietor, shipper or consignee of the cargo, and keep a record thereof.

Survey before Sale of Damaged Vessels, &c.

18. No goods, vessels, or other property shall be sold as damaged for account of underwriters, unless a regular survey and condemnation has previously been had, and the Port Warden shall in all such cases be one of the surveyors.

Substance of 36 Vict. c. 11, s. 6.

The Port Warden may, in any case he thinks it right and necessary, initiate proceedings, and hold surveys, and obtain process, as if required by the parties concerned under the provision of this Act. See Amendment of 1873, s. 6.

26 Vict. c. 52.

Notice to Parties.

19. Before proceeding to act in any case in the performance of his duties, the Port Warden shall give reasonable notice to all parties interested or concerned in the case.

Time for Notice.

20. All notices, requests, or requirements to, or from the Port Warden, must be given in writing and a reasonable time before action is required.

Certificates by Port Warden.

21. On the demand of any party interested, the Port Warden shall furnish certificates in writing, under his hand, of any matters of record in his office; he shall also furnish when required, copies of any entries in his books, or documents filed in his office.

Copies of Regulations.

22. The Port Warden shall supply, to every master of a vessel arriving in the Port of Montreal, a copy of the regulations relating to the office of Port Warden, once in each year.

Lloyd's Regulations to apply.

23. In all matters regarding surveys, &c., the Port Warden shall conform to, and be governed by the regulations of Lloyd's, so far as they are applicable to the Port of Montreal, and to the circumstances of the case.

Disputes between Port Warden and Parties, how decided.

24. Should any dispute arise between the Port Warden and any party interested, in any case where his presence has been required, either party may appeal to the Board of Examiners, and it shall be the duty of the Secretary of the said Board of Trade, on a requisition being presented to him to that effect, to summon forthwith a meeting of the said Board of Examiners who, or not less than three of them, shall immediately investigate and report on the cases submitted to them, and their determination, or that of a majority of them, made in writing, shall be final and conclusive.

Costs.

25. The party against whom the Examiners decide shall pay all the expenses, and the Examiners shall determine the amount of fees, or charges payable in each case, which shall never exceed 20 dollars.

His Certificates to be Evidence Primâ Facie.

26. All certificates issued under the hand of the Port Warden or his deputy, and sealed with the seal of his office, referring to matters recorded in his books, shall be received as *primâ facie* evidence of the existence and contents of such record in any court in this Province.

Tariff of Fees to be made by Council of Board of Trade—Maximum Fees.

27. The Council of the Board of Trade for the City of Montreal may, from time to time, establish a tariff of fees to be paid to the Port Warden for services performed by him and his deputies, by the masters or owners of sea-going vessels, and by others in respect of whom the duties of the said Port Warden are required to be performed; which tariff being first approved by the Governor in Council, shall be in force until repealed or altered by the said Council of the Board of Trade, as it may be at any time, with the approval of the Governor in Council; but such fees shall not exceed the rates hereinafter mentioned, that is to say:

Surveys and Certificates.

1. For every survey and certificate thereof by the Port Warden and his assistant, of the hatches and cargo of any vessel, or of the hull, spars, and rigging thereof, or the survey of damaged goods, a fee, including the certificate thereof, not exceeding eight dollars each, and such further sum, not exceeding five dollars, as may be payable to shipwrights, or other skilled persons employed by him;

Valuation and Inspection of Vessels.

2. For every valuation of a vessel for average, and every inspection of a vessel intended to load, a fee to be graduated according to the tonnage of such vessel, but not in any case to exceed ten dollars;

Settling Disputes.

3. For hearing and settling disputes, of which the Port Warden is authorised to take cognizance, and for the fees on appeal to the Board of Examiners, a sum to be graduated according to the value of the thing or amount in dispute, but in no case to exceed 20 dollars.

29 Vict. c. 59.

Additional Fees.

1. In addition to the fees authorised to be taken by the said recited Act for services performed by the Port Warden or his deputies, the following fees and charges shall be paid by the shippers of the following articles from the Port of Montreal, in sea-going vessels, that is to say

On Grain.

On all grain shipped from the said port, a fee not exceeding 25 cents for every 1,000 bushels, with a proportionate charge for every fractional quantity thereof.

On Flour.

On all flour shipped from the said port, a fee not exceeding one dollar for every 1,000 barrels, with a proportionate charge for every fractional quantity thereof.

On Ashes.

On all ashes shipped from the said port, a fee not exceeding two cents per barrel.

On other Articles—Proviso.

On all other articles not hereinbefore enumerated and shipped from the said port, a fee not exceeding 10 cents per ton weight or ton measurement, and the same fee on all quantities or parcels of such other articles exceeding in the whole shipment half a ton, though not amounting to one ton weight or measurement; but no fee to be charged in respect of such other articles for any shipment not amounting to half a ton, or for any fractional parts of a ton in any shipment exceeding one or more tons.

Fees may be Apportioned for Particular Services—Must be Approved by Governor in Council.

4. The foregoing maximum rates, comprehending the fees for the incidental proceedings, certificates, and copies, may be altered and apportioned, and the particular service distinguished, and the fee therefor assigned; and the person by whom the same shall be paid may be indicated in such way as the Council of the Board of Trade may from time to time appoint; and all rates and fees so established shall be subject to the approval of the Governor in Council, who shall have power, from time to time, to reject or modify and alter such fees and rates.

Port Warden to keep Account of Fees—as to Disputes touching Fees.

3. The Port Warden shall record all fees received under this Act, and make annual return thereof, in the same manner as provided by the 4th Section of this Act, and the 24th and 25th Sections of this Act shall apply to any dispute arising between the Port Warden and any shipper from whom fees are claimed under this Act.

Board of Trade may fix a Salary for the Port Warden instead of Fees.

4. The Board of Trade may, if they see fit, at any time, fix and appoint a salary to the Port Warden, to include his own remuneration and that of his deputies and his expenses of office or otherwise, as may be arranged; and for any period during which the Port Warden shall be paid by salary, such balance as may appear by his certified annual return, to be in his hands over and above his salary (or over and above his salary, that of his deputies and his expenses of office, if the same are not included in his salary), shall be forthwith paid by the said Port Warden to such person as the Board of Trade shall depute to receive the same.

Penalties for Infractions of 26 Vict. c. 52; Recovery.

Every such penalty as aforesaid shall be recoverable in the manner prescribed by the interpretation Act in cases where penalties are imposed, and the recovery is not otherwise provided for.

36 Vict. c. 11, s. 7.

The whole of any pecuniary penalty imposed by this Act shall belong to the Crown, and shall be paid over to the Receiver General by the officers or persons receiving it, and shall be appropriated in such manner as the Governor General in Council may direct. See Amendment of 1873, Sect. 7.

36 Vict. c. 11, s. 6.

Whenever the Port Warden is mentioned in any provision of the Acts, such provision shall always be understood to apply to the Deputy Port Warden.

37 Vict. c. 33, s. 2.

Yearly Report to Minister of Marine.

The said Port Warden shall yearly, within seven days after the 1st day of January, transmit to the Minister of Marine and Fisheries, a report of the business done in his office, and of his receipts and expenditure in respect thereof, in such manner and form as the Minister may direct.

RULES and BYE-LAWS of the OFFICE of PORT WARDEN of the HARBOUR of MONTREAL.

SECTION I.—GENERAL REGULATIONS.

1. EVERY master of a vessel on arriving in port from any place not within the limits of inland navigation, shall (in order to enable the Port Warden to grant the necessary certificate for the vessel's clearance at the Custom House), proceed to the Port Warden's office, and make a report of his vessel and cargo, and receive a copy of these rules and bye-laws.

2. Any party interested and objecting to the application by the Port Warden of these regulations, can obtain an investigation by the Board of Examiners, by requisition to the Secretary of the Board of Trade, and their decision shall be final and conclusive. The party appealing to them shall pay the fees and charges of the investigation, not, however, to exceed 20 dollars, if the Board of Examiners so decide.

3. The Port Warden shall keep in his office records in full of all his proceedings, together with statements of the results of all examinations and inquiries made by him, which records may be inspected during business hours by any parties interested. He shall keep on record all certificates granted by him, and grant duplicates of the same as hereafter provided, on payment of the regular fee.

4. All notifications and requests to the Port Warden must be made at his office in writing, and duly entered by the Port Warden in a book to be kept for that purpose.

5. The Port Warden, when requested in writing by the parties interested, shall arbitrate upon any dispute between the master or consignee of any ship or vessel, and any proprietor, shipper, or consignee of cargo. He shall also, when required, estimate the value and measurement of any vessel, when the same is disputed or otherwise needed.

6. The Port Warden may in any case where he thinks it right and necessary, initiate proceedings and hold surveys, and obtain process, as if required by the parties concerned; and whenever the Port Warden is mentioned in these rules and bye-laws, it shall also always be understood to apply to any Deputy Port Warden who may be appointed.

SECTION II.—REGULATIONS REGARDING VESSELS INWARDS.

7. Any vessel arriving in port can have its hatches examined and opened by the Port Warden, and should they be opened by any other person, and any portion of the cargo be found to be damaged, "these facts shall be *prima facie* evidence that such damage occurred in consequence of improper stowage or negligence on the part of the persons in charge of the vessel: and such default shall, until the contrary be shown, be chargeable to the owner, master, or other person interested as part owner of the said vessel."

8. The master of any vessel which has broken bulk for the purpose of lightening, or other necessary purposes, previous to her arrival, shall immediately on the discovery of any damaged cargo notify the Port Warden, and proceed to hold a survey on the same, in the manner prescribed by law, before the same shall be moved out of the place in which it was originally stowed.

9. The Port Warden on being notified and requested by any of the parties interested, shall proceed on board of any ship, steamer, or other vessel, or to any warehouse, dwelling, or wharf, and examine the condition or stowage of any cargo, and any goods damaged, or said to have been damaged on board of any vessel, and examine and ascertain the cause of such damage. He shall also have cognisance of all surveys of vessels or cargoes damaged, and on payment of the regular fee shall give certificates of such surveys.

10. The Port Warden shall, when required, be surveyor on any vessel which may have suffered wreck or damage, or which shall be deemed unfit to proceed on her voyage; he shall examine the hull, spars, rigging, and all appurtenances thereof, shall specify what damage has occurred, record in the books of his office a full and particular account of all surveys held on such vessel; he shall call to his assistance, if necessary, in such survey one or more carpenters, sailmakers, riggers, shipwrights, or other persons skilled in their profession, who shall each be entitled to a fee not exceeding two dollars for the first survey, and one dollar for each subsequent one on which their services may be required, to aid him in the examination and survey, but no such surveyor must be interested in the case; the Port Warden shall also, if required, be surveyor of the repairs necessary to render such vessel seaworthy, and his certificate that these repairs have been properly made, shall be evidence that the vessel is seaworthy.

11. No goods, vessels, or other property shall be sold as damaged for account of underwriters, unless a regular survey and condemnation has previously been had, and the Port Warden shall in all such cases be one of the surveyors.

12. It shall be the duty of every auctioneer making a sale of any vessel condemned, or ships' materials, or goods damaged on board a ship or vessel, whether seagoing or of inland navigation, sold for benefit of underwriters or others concerned, in the city of Montreal, to file a statement of the same at the office of the Port Warden within 10 days after such sale. No underwriter's sale shall take place until after at least two days' public advertisement, in not less than two English newspapers and one French newspaper in the city of Montreal, and such sale shall not be at an hour earlier than 12, nor later than three o'clock in the day.

SECTION III.—REGULATIONS AFFECTING VESSELS OUTWARDS.

13. The following scale is the limit to which ships of ordinary build should be laden, subject, however, in all cases, to the judgment of the Port Warden.

Vessels from 12 ft. to 14 ft. depth of hold to have	2½	} inches clear side to each foot depth of hold.
" " 12 " to 17 " " "	2¾	
" " 17 " to 20 " " "	3	
" " 20 " to 22 " " "	3¼	
" " 22 " to 26 " " "	3½	

14. No vessel over 450 tons register shall be permitted to load an entire cargo of grain in bulk—oats excepted. All vessels loading grain will be required to have a bulkhead not less than six feet from the bow and one foot from the stern.

15. No vessel will be permitted to take more than 12,000 bushels of grain in bulk without a bulkhead to divide it into compartments, no compartment to contain more than 12,000 bushels.

16. All vessels (loading grain in bulk) of 400 tons, to be platformed or dunnaged not less than nine inches at the keelson, and 12 inches at the bilge; ships of 1,200 tons, 12 inches at the keelson and 15 inches at the bilge, including the thickness of lining boards; other sized ships in proportion; and lined with well-seasoned timber. Vessels under 600 tons register to have two inches of dunnage, over that tonnage to have three inches of dunnage, between the grain and other cargo. All vessels to be dunnaged and lined to the satisfaction of the Port Warden.

17. The master of any vessel intending to load grain in bulk, for any port not within the limits of inland navigation, shall, before taking in any of such grain, notify the Port Warden from time to time, while the different chambers are being prepared, to survey and inspect the said vessel; the Port Warden in such case shall ascertain whether such vessel is in a fit state to receive and carry the cargo intended for her to its destination; he shall record in his books the condition of the vessel; if he finds she is not fit to carry the cargo in safety, he shall state what repairs are necessary to render her seaworthy; before beginning to load each chamber, he shall be careful to see that such chamber is in a fit and proper state and condition to receive grain, and should he deem it necessary, he may order that such chamber be properly dunnaged and lined, and provided with shifting boards, or, that the same be dunnaged or lined or provided with shifting boards; and he shall see that the boards and plank used for these purposes are properly seasoned; he shall examine the pumps and see that they are properly lined and dunnaged; he shall enter in the books in his office all particulars connected with these surveys and grant the necessary certificates.

18. The pumps of all vessels loading grain in bulk, and when necessary the masts to be cased in; the casing round the pump to be large enough to allow a man to pass down into the well not less than 4 feet × 5 feet; the casing to be of good workmanship, and of seasoned wood, so that the grain may not pass through. There must be also proper shifting boards on each side, which must be well secured to the stanchions, and the stanchions themselves well secured to the beams and keelson. Shifting boards to extend to at least two-thirds of the depth of the grain space, and to be provided also whenever grain in bags is laden between decks.

19. Great care should be taken to well fill the vessel with bulk grain under the decks, and it is advisable when vessels are filling up, that no more grain should be put on board than the number of labourers employed are able to trim and properly stow.

20. The following regulations with reference to the quantity of grain, in bulk, which vessels may be allowed to take in proportion to their tonnage, is to be observed in future, subject, however, to the judgment of the Port Warden:—

450 at	500 tons—	42 bushels of 60 lbs. per register ton.
500 "	550 "	—41 " "
550 "	600 "	—40 " "
600 "	650 "	—38 " "
650 "	700 "	—37 " "
700 "	750 "	—35 " "
750 "	800 "	—34 " "
800 "	850 "	—33 " "
850 and upwards—	32	" "

Should the vessel's carrying capacity in the lower hold exceed the scale, enough may be taken to raise the grain to not over six inches above the beams, provided always that the prescribed draught of water, when the vessel is loaded, be not exceeded.

Oats may be carried in bulk to any extent, irrespective of the tonnage of the ship, but subject to such regulations with reference to dunnage, lining, and shifting boards, as the Port Warden may prescribe.

21. The master of any vessel wholly or partly laden with grain for any port not within the limits of inland navigation, shall, before proceeding on his voyage, or clearing at the Custom House for the same, notify the Port Warden, whose duty it shall then be to proceed on board such vessel and examine whether she is in a fit state to proceed to sea or not; if she is found unfit, the Port Warden shall state in what particular, and on what conditions only she will be deemed in a fit state to leave, and shall notify the master not to leave the port until the required conditions have been fulfilled; and in the case of the master refusing or neglecting to fulfil the same, the Port Warden shall notify the Collector of Customs, in order that no clearance may be granted for the vessel until such required conditions have been fulfilled, and a certificate thereof granted by the Port Warden or his deputy.

22. No officer of customs shall grant a clearance to any vessel, wholly or partly loaded with grain, for the purpose of enabling her to leave the Port of Montreal for any port not within the limits of inland navigation, unless nor until the master of such vessel produce to him a certificate from the Port Warden or his deputy, to the effect that all the requirements of the 17th clause of these regulations have been fully complied with, if such grain be laden in bulk; nor unless or until such master produces to him a certificate from the Port Warden or his deputy that all the requirements of the 21st clause of these regulations have been fully complied with, if such vessel be wholly or partly laden with grain; and if any vessel, wholly or partly laden with grain, attempts to leave the Port of Montreal without a clearance, for any port not within the limits of inland navigation, any officer of customs or any person acting under direction of the Minister of Marine and Fisheries, or the chief officer of the river police, may detain such vessel until such certificate is produced to him.

SECTION IV.—PENALTIES AND FEES.

23. The penalty for any and every infraction or breach of the 8th clause of these regulations shall be the sum of 40 dollars; and for every infraction or breach of the 17th clause of these regulations the sum of 800 dollars; and for every infraction or breach of the 12th clause of these regulations, the sum of 20 dollars; and every and each such penalty as aforesaid shall be recoverable in the manner prescribed by the Interpretation Act, in cases where penalties are imposed, and the recovery is not otherwise provided for.

24. The following fees shall be payable to the Port Warden by the parties employing him; but in case of a survey of cargo alleged to be improperly stowed, the party in the wrong shall pay the fee.

FEES.

	\$.	cts.
First survey of hatches and (or) cargo, including certificate	-	1 00
Every subsequent survey	-	0 50
Every		

FEEs—*continued.*

	\$	cts.
Every survey on damaged goods on wharf or in store with certificate value 200 dollars and under - - - - -	1	00
Over that value - - - - -	2	00
Survey of hull and (or) sails, spars and rigging of any vessel damaged or arriving in port in distress - - - - -	5	00
Every subsequent survey - - - - -	1	00
Survey to ascertain if ship is seaworthy with certificate - - - - -	2	50
Survey that repairs ordered if not seaworthy have been made, with certificate - - - - -	2	00
Valuation of a vessel for average under 500 tons - - - - -	5	00
500 to 1,000 tons, 1.00 dollar per 100 tons, but not to exceed - - - - -	7	50
Survey of cargo reported to have shifted, with certificate - - - - -	4	00
Measurement of a vessel's beam for towage - - - - -	1	00
Extra copies of certificate, when required - - - - -	0	25
For inspection of the lining of a vessel intending to load grain:—		
200 tons and under 400 - - - - -	3	00
400 " " " 600 - - - - -	4	00
600 " " " 800 - - - - -	5	00
800 tons upwards - - - - -	6	00
General superintendence of loading on vessels which do not pay fees otherwise - - - - -	5	00
Certificate of general loading where fees have not otherwise been paid to the amount of 3.00 dollars - - - - -	1	00
Settling disputes between master and consignee of ship and owner of cargo - - - - -	2	50
For certificate under seal or copy of record or document - - - - -	1	00
Every extra copy of every certificate - - - - -	0	25
For the appeal of any case from the Port Warden to the Board of Examiners, payable by the party against whom the decision is given—in no case more than - - - - -	20	00

TABLE OF EXPORT FEES

To be Collected by the Port Warden of Montreal, under the Act 29 Vict. c. 59, 1865, in Amendment of the Act 26 Vict. c. 52, 1863, and approved by His Excellency the Governor General in Council, on shipments by sea-going Vessels loaded for Ports other than those in British North America.

On Grain.

	\$.	cts.
For every 1,000 bushels, and every proportionate quantity of wheat and peas	0	15
Ditto - - ditto - - ditto - - barley - - - - -	0	12
Ditto - - ditto - - ditto - - . oats - - - - -	0	10
Ditto - - ditto - - ditto - - Indian corn - - - - -	0	10

On Flour and Meal.

On every 1,000 barrels, and proportionate charge for every fractional quantity thereof - - - - -	0	75
Ashes per barrel - - - - -	0	02
Apples per barrel - - - - -	0	00½
Coal oil per barrel - - - - -	0	00½
Ores and minerals per ton (ballast excepted) - - - - -	0	04
Oil cake per ton - - - - -	0	03
Phosphates per ton - - - - -	0	02
Lumber, and all other descriptions of timber, per ton weight - - - - -	0	02
On other articles not herein enumerated, being natural productions, per ton - - - - -	0	02
On other articles not herein enumerated, and shipped from this port, being manufactured in whole or in part, per ton weight or measurement - - - - -	0	06
And the same on all quantities or parcels of such other goods exceeding in the whole shipment half a ton, though not amounting to one ton weight or measurement; but no fee to be charged in respect to such other articles for any shipment not amounting to half a ton, or any fractional part of a ton, in any shipment exceeding one or more tons.		

(By order of the Board),

A. Sclater,
Port Warden.

Port Warden's Office, Montreal,
May 1874.

— No. 5. —

(M. 7984.)

Colonial Office to Board of Trade.

Sir,

Downing-street, 25 May 1875.

I AM directed by the Earl of Carnarvon to transmit to you, for the consideration of the Board of Trade, a copy of a Despatch from the Governor General of Canada, enclosing a Report of a Committee of the Privy Council relating to the objections taken by the Board of Trade in your letter of the 4th of February last to the Acts of the Canadian Legislature, entitled respectively—

See ante, No. 4.

37 Vict. c. 30.

“ An Act further to amend the Act respecting the Inspection of Steamboats ;” and

37 Vict. c. 32.

“ An Act to provide for the Appointment of Port Wardens at certain Ports of the Dominion.”

I am to observe that an extract only of your letter of the 4th of February last was communicated to the Governor General, as shown in the Despatch, of which a copy is annexed, and I am to request that you will move the Board of Trade to inform Lord Carnarvon whether the explanations now forwarded remove their Lordships' objections to the Acts in question.

The Assistant Secretary,
Marine Department, Board of Trade.

I am, &c.
(signed) *W. R. Malcolm.*

— No. 6. —

(M. 7984.)

Board of Trade to Colonial Office.

Board of Trade, Whitehall Gardens,
26 June 1875.

Sir,

I AM directed by the Board of Trade to acknowledge the receipt of your letter of 25th ultimo, forwarding a Despatch from the Governor General of Canada, with a Report of a Committee of the Privy Council, relative to certain objections raised by the Board of Trade to two Acts of the Canadian Legislature.

With regard to the first of these Acts, “ An Act further to amend the Act respecting the Inspection of Steamboats ;” as this Act is stated only to apply to British, Canadian, or Foreign vessels engaged in the passenger coasting trade of Canada, and not to “ British or Foreign ships trading between Canada and the United Kingdom, or between Canada and Foreign Countries,” the Board of Trade see no reason why this Act should not come into operation.

With regard to the second Act, entitled “ An Act to provide for the Appointment of Port Wardens at certain Ports of the Dominion ;” looking to the views expressed in the Report of the Committee of the Privy Council, the Board of Trade are of opinion that this Act may also be sanctioned.

At the same time they adhere to the opinions expressed in their former letter as to the extensive powers which this Act confers on Port Wardens, and request you to move the Earl of Carnarvon to point out to the Canadian Government that should the exercise of these powers be found to clash with Imperial interests, Her Majesty's Government must claim the right to interfere for their protection.

The Under Secretary of State,
Colonial Office.

I am, &c.
(signed) *Thomas Gray.*

— No. 7. —

The Earl of *Carnarvon* to the Officer Administering the Government of Canada.

Sir,

Downing-street, 8 July 1875.

In reply to the Earl of Dufferin's Despatch, No. 130, of the 6th of May, I transmit to you a copy of a further letter from the Board of Trade in regard to the provisions of the Acts of the Canadian Parliament, Nos. 30 and 32 of 1874, entitled respectively, "An Act further to amend the Act respecting the inspection of steam-boats," and "An Act to provide for the appointment of Port Wardens at certain parts of the Dominion."

See ante, No. 6.

Her Majesty will not be advised to exercise her power of disallowance in respect of either of these Acts, but I trust that the practical operation of the Act, No. 32, will not be found open to the objections referred to by the Board of Trade.

The Officer Administering the
Government of Canada.

I have, &c.
(signed) *Carnarvon.*

— No. 8. —

(M. 5794.)

Colonial Office to Board of Trade.

Sir,

Downing-street, 14 April 1875.

I AM directed by the Earl of Carnarvon to request that you will inform the Board of Trade that a telegram has been received from the Governor General of Canada to the effect that the Dominion Government regard as very objectionable the amendments proposed by Mr. Plimsoll in the Merchant Shipping Bill now before Parliament; and request that the measure may be delayed until they shall have had time to communicate their views.

Lord Carnarvon hopes that an opportunity will be afforded to the Canadian Government of stating their objections before the Bill is disposed of.

The Secretary to the Board of Trade.

I am, &c.
(signed) *W. R. Malcolm.*

— No. 9. —

(M. 5794.)

Board of Trade to Colonial Office.

Sir,

Board of Trade, Whitehall Gardens.

26 April 1875.

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 14th instant, stating that the Government of the Dominion of Canada regard as very objectionable the amendments proposed by Mr. Plimsoll in the Merchant Shipping Bill now before Parliament, and request that the measure may be delayed until they shall have had time to communicate their views.

In reply, I am to state, for the information of the Earl of Carnarvon, that the Board will be very glad to have the observations of the Canadian Government on the subject, and that the Government Bill will not come on until two or three weeks after Whitsuntide.

The Under Secretary of State,
Colonial Office.

I have, &c.
(signed) *G. J. Swanston.*

— No. 10. —

The Earl of *Dufferin* to the Earl of *Carnarvon*.

Canada.

My Lord,

Government House, Ottawa, 23 April 1875.

ON the 12th instant I informed your Lordship by telegraph that my Government entertained great objections to certain amendments to the Merchant Shipping Act reported to have been introduced in the House of Commons by Mr. Plimsoll, and that they asked for the good services of Her Majesty's Government in delaying the passage of such proposals until time was afforded for a more detailed remonstrance to be sent to England.

I have now the honour to enclose a copy of a Report of a Committee of my Privy Council on that subject, which I have no doubt will receive due consideration at your Lordship's hands.

The Right Honourable the
Earl of Carnarvon.
&c. &c. &c.

I have, &c.
(signed) *Dufferin*.

Enclosure in No. 10.

COPY of a REPORT of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General, on the 22nd April 1875.

THE Committee of Council have had under consideration a Report of the 20th April 1875 from the Honourable the Minister of Marine and Fisheries, having reference to the Reports to Council of his predecessor, of the 10th and 14th May 1873, recommending that Her Majesty's Government be requested to urge upon Parliament the exemption of Canadian shipping from the operation of the Plimsoll Bill, as the passage of such Bill might injuriously affect Canadian shipping, and hold out inducements to transfer a large portion of the tonnage of Canada to foreign flags; and having also reference to his Report to Council, dated the 5th instant, stating that he had received information that a Bill was again before Parliament relating to the same subject, recommending that the British Government be requested by telegram to urge on the Imperial Parliament the exemption of Canadian shipping from the operation of such Bill, as he understood it might seriously affect the interests of such shipping.

The Minister states that, although he has not been able to see a copy of the amendments proposed by Mr. Plimsoll to the Imperial Merchant Shipping Bill, he has seen notices of such proposed amendments in the newspapers, from which it appears that such amendments, if carried, would seriously affect the interests of Canadian ships, while in the United Kingdom, by subjecting them to compulsory inspection and restrictions with reference to deck-loading, freeboard, and seaworthiness.

That as the shipping registered in Canada now amounts to 6,930 vessels, measuring 1,158,363 tons register, of an estimated value of 34,750,890 dollars, a large portion of such shipping being seagoing vessels, trading to and from the United Kingdom, he is of opinion that it is very important, where such a large Canadian interest is affected, that no Imperial legislation should be enacted affecting such interest until the Canadian Government has been afforded an opportunity of expressing an opinion on such proposed legislation, which would affect such a large amount of capital as is invested in this particular interest.

That with reference to deck loads, the Canadian Parliament has already considered this subject, and has provided legislation on it, restricting deck loads on vessels leaving Canada during certain seasons of the year. A copy of the Act is herewith annexed.

That with reference to freeboard and overloading with grain and other cargoes, at Montreal, the principal grain-loading port in the Dominion, Parliament has already provided legislation on this subject, and the restrictions imposed have been found to be most advantageous to the safety of life and property. A copy of the Act is also herewith annexed.

That similar restrictions are also imposed at Quebec, and a General Port Wardens Act was past last year, extending the principles of the Montreal and Quebec Acts to such ports in the Dominion as may be brought under it by an order of the Governor in Council.

That the ports of Halifax, Nova Scotia, and Victoria, British Columbia, have recently been brought under the operation of this Act, a copy of which is herewith annexed.

That

That with reference to the general question of seaworthiness of Canadian ships, he remarks that nearly all the seagoing vessels of Canada are classed either in British Lloyd's, French Bureau Veritas, or American Lloyd's, which is a good guarantee of their strength and seagoing qualities, and he is now considering the propriety of recommending the adoption of rules and regulations for the voluntary inspection and classification of Canadian ships by the Canadian Government, provided for in the 54th section of the Canadian Act, 36 Vict. c. 128, in order that Canada might have the advantage of possessing a national institution of its own for the classification of its shipping; the rapid growth of its mercantile marine and the large amount of Canadian capital now invested in this interest appearing to require such additional facilities for the classification of its shipping.

The Minister therefore recommends that Her Majesty's Government be requested to urge on Parliament the exemption of Canadian shipping from the operation of any of the provisions contained in the amendments proposed by Mr. Plimsoll until the Canadian Government and Canadian shipowners have had an opportunity of considering such provisions.

In the event of any compulsory official inspection being imposed in the United Kingdom on British ships generally, he presumes the classification of Canadian ships by officers of the Government of Canada, if such a system is adopted, would be accepted by the authorities of the British Government as equivalent to official inspection of the United Kingdom, in the same manner as the official examination of masters and mates by the Government of Canada is accepted by the British Government as equivalent to the official examination of such persons by the officers of the Imperial Board of Trade.

The Committee concur in the foregoing Report, and recommend that a copy of this Minute and documents appended be transmitted to Her Majesty's Secretary of State for the Colonies.

Certified,

(signed) *W. A. Himsworth,*
Clerk Privy Council, Canada.

-- No. 11. --

(M. 7311.)

Colonial Office to Board of Trade.

Sir,

Downing-street, 11 May 1875.

WITH reference to your letter of the 26th of April, I am directed by the Earl of Carnarvon to transmit to you, to be laid before the Board of Trade, a copy of a Despatch from the Governor General of Canada, enclosing a Report of a Committee of the Privy Council relating to the Merchant Shipping Bill now before Parliament, and to certain proposed amendments thereto.

See ante, No. 10.

I am, &c.

The Assistant Secretary,
Marine Department, Board of Trade.

(signed) *W. R. Malcolm.*

-- No. 12. --

(M. 11,185.)

Colonial Office to Board of Trade.

Sir,

Downing-street, 31 July 1875.

WITH reference to the notice given by Mr. Reed, M.P., of his intention to move an instruction to the Committee on the Unseaworthy Ships Bill, I am directed by the Earl of Carnarvon to request that you will remind the Board of Trade of the desire of the Canadian Government, as conveyed in the letter from this Department of the 11th May, that any Imperial legislation on the subjects referred to in Mr. Reed's notice of motion should not be made applicable to Canadian shipping until the Canadian Government and shipowners have had an opportunity of considering such provisions.

See ante, No. 11.

Lord Carnarvon believes that the Board of Trade are aware that Mr. William Smith, the Canadian Deputy Minister of Marine and Fisheries, is in this country, and he may be able to give some explanation of the views of his Government on a question as to which Lord Carnarvon does not desire to offer an opinion.

I am, &c.

The Assistant Secretary,
Marine Department, Board of Trade.

(signed) *R. H. Meade.*

— No. 13. —

(M. 11,185.)

Board of Trade to Colonial Office.

Board of Trade, Whitehall Gardens,
4 August 1875.

Sir,

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 31st ultimo, calling their attention to the fact that Mr. William Smith, the Deputy Minister of Marine in Canada, is at the present time in this country, and suggesting, with reference to your letter of the 11th May, that as it is undesirable that any Imperial legislation on the subjects referred to in Mr. Reed's notice of motion should be made applicable to Canadian shipping until the Canadian Government have had an opportunity of expressing their views, it might be in Mr. Smith's power to afford information on the subject.

In reply, I am to state, for the information of the Earl of Carnarvon, that Mr. William Smith has had an interview with the President.

The Under Secretary of State,
Colonial Office.

I have, &c.
(signed) *H. G. Calcraft.*

— No. 14. —

(M. 14,083.)

Colonial Office to Board of Trade.

Sir,

Downing-street, 24 September 1875.

I AM directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Board of Trade, extracts from two Canadian newspapers, which have been sent to this Department by Mr. Gilkison, of Brantford, Ontario, in regard to the shipping of grain from Canada in bulk as affected by the Imperial Merchant Shipping Act of last Session.

The Assistant Secretary,
Marine Department, Board of Trade.

I am, &c.
(signed) *Robert G. W. Herbert.*

Enclosure in No. 14.

EXTRACT from the "Montreal Gazette."

"SHIPPING GRAIN IN BULK.

"MR. HENRY FRY, of Quebec, one of our best Canadian authorities on shipping matters, writes to the 'Montreal Gazette' respecting one particular feature of the new English Act, which may seriously affect the business of shipping grain from Canada to England. From the debates in the House of Commons, it appears that on 3rd August the Chancellor of the Exchequer accepted an amendment of Mr. Read's 'Prohibiting the carriage, in British ships, of grain in bulk,' with an addition, 'which limited the prohibition to cases in which more than one-third of the cargo consisted of grain;' and another amendment was afterwards accepted 'providing that a British ship, carrying more than one-third of a grain cargo in bulk, should not be deemed seaworthy;' and in the debate of the 5th of August another amendment was carried, providing 'that the clause should not apply to any grain shipped before the 1st of October 1875.' Unless, therefore, says Mr. Fry, a large supply of grain bags are procured during September, it will be practically impossible to ship grain from Montreal in British ships after the 1st October. And he thus concludes: 'I say nothing at present about the policy of a sweeping measure of this sort, the product of an unreasoning panic, but it is evident that it will act with tremendous force against British shipowners, throw the bulk of the British grain-carrying trade into the hands of foreigners, and tell against Montreal and in favour of New York, where a large proportion of the carrying trade is done by Germans, Norwegians, and Italians, who will thus be in a position to carry grain at a cheaper rate than British ships.'

"The

“The danger to Canadian interests foreseen by Mr. Fry is traceable to the same source as another which was the subject of debate in the Dominion Parliament last Session. When it was proposed to prohibit the carrying of deck loads, the objection was made that if this were done trade would be lost to Canadian vessels affected by the prohibition, and would go to foreign vessels, which our laws could not control. At bottom the trouble is this, that if any nation, from motives religious, moral, or philanthropic, puts restrictions upon the way in which her own traders and manufacturers may carry on their work, then other nations that care for no such motives, but only for the pursuit of gain by the shortest road to it, will have a tremendous advantage. When Great Britain abolished slavery in her own possessions, she made far more sacrifice than that of the twenty millions sterling indemnity paid to British slave-owners; she voluntarily loaded the business of sugar production in her colonies with a weight which gave a sweeping advantage to all sugar-producing countries that still retained the material strength along with the moral curse of slavery. Similarly, a nation having a ten hours' factory law is at a material disadvantage as compared with one whose factory operatives work twelve hours. If we wish to be a humane, moral people, and to be careful of the life and happiness of the poorest amongst us, well and good; but let us understand that the foreign nation that cares for none of these things will, other things being equal, beat us in cheapness of production and carriage. True, Great Britain holds her place in spite of her anti-slavery and other humane legislation, but that is on account of her enormous advantages in material respects not thereby affected—in her large capital, abundance of coal, iron, and mechanical skill, and in the grasp which her merchants have long had and still retain of the world's markets, both near and distant. Cuba, with slavery, will make sugar cheaper than Jamaica can without it; and foreign vessels will take cargoes from British vessels if the former are free to carry grain in bulk, and deck loads, with no conditions as to their being seaworthy, while the latter are held to good behaviour, as we may say, by the provisions of a stringent Shipping Act.

“The difficulty being thus stated, how is it to be got over? Clearly we cannot go back to slavery, nor yet can we put down Mr. Plimsoll, and determine that shippers may load and sail as they please, no matter what the consequences may be. We cannot deliberately resolve that freights must be had, and that shipping profits must be made, at no matter what sacrifice of human life. There remains the alternative of two courses. We must either pass navigation laws applying to foreign vessels at our own ports, and impose differential duties on goods both coming and going by foreign vessels, or we must negotiate with foreign nations and get them to adopt and enforce shipping laws of equal stringency with our own. If they agree to this, the latter will be our easiest way, but if they refuse are we prepared to adopt the former in self-defence? It is for our legislators and men of business to consider well what answer they would give to this question.”

“THE SHIPPING ACT.

“WE print this morning a letter from Mr. Henry Fry, of Quebec, upon a subject of very great interest to this community. Until the text of the Act recently passed by the British Parliament has been received, it is impossible to say whether Mr. Fry's fears are well founded. Our own impression is that they are but too well founded, and that in this legislation the Port of Montreal has received a very serious blow. Our readers will remember that we discussed this question last spring, and pointed out the danger that was imminent if some steps were not taken to prevent the legislation extending to Canada. Mr. Mitchell, when Minister of Marine and Fisheries, had provided against such a contingency. By arrangement with the Imperial authorities, he had secured an agreement by which Canadian vessels, or vessels loading in Canada, would be exempted from the operations of the Imperial statute, upon condition that the Canadian Parliament would pass an Act regulating the loading and classification of ships. That Act was passed, with a clause empowering the Governor in Council by Proclamation to bring it into force, this being necessary in consequence of the machinery required for carrying it into effect. Had Mr. Mitchell remained at the head of the department, the Act would have been in operation a year ago, and we should have been saved the evil to which Mr. Fry refers. But with the carelessness and indifference which has rested like a pall upon this department under its present management, no steps have been taken to give effect to the law. During last Session Mr. Mitchell and Mr. Goudge both called the attention of Ministers to the subject, and the First Minister and Mr. Smith each stated that the Government was at that moment in correspondence with the Imperial Government on the subject. When the papers asked for were brought down, near the close of the Session, it was found that there was no truth in these assurances, no correspondence having taken place since Mr. Mitchell left office. About a fortnight after the Session closed, the Ministerial papers announced that a despatch on the subject had been sent to the Colonial Office. Whether this statement was true or not it is impossible to say; but we greatly fear that the criminal indifference to the interests of the shipping and commerce of the Dominion which characterises this Government, has subjected us to evils which no one better than Mr. Fry knows how to appreciate, and which he refers to in the letter which we print in another column, and to which we direct the reader's attention.”

— No. 15. —

(M. 14,083.)

Board of Trade to Colonial Office.

Board of Trade, Whitehall Gardens,
4 October 1875.

Sir,

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 24th ultimo, enclosing extracts from Canadian newspapers, speculating on the probably injurious effect, as regarded the Canadian grain trade, of certain Amendments proposed in Committee on the Merchant Shipping Bill, 1875, if those Amendments should become law.

In reply, I am to transmit to you, to be laid before Lord Carnarvon, a copy of the Merchant Shipping Act, 1875, from which it will be observed that the Amendments complained of were not embodied in the Act, or at least were modified so as not to interfere vexatiously with the Canadian grain trade, as Mr. Fry apprehended. I am to suggest that a communication to this effect may be made to Messrs. Gilkison and Fry.

The Under Secretary of State,
Colonial Office.

I have, &c.
(signed) *Thomas Gray.*

— No. 16. —

The Earl of *Carnarvon* to the Earl of *Dufferin*.

My Lord,

Downing-street, 7 October 1875.

I HAVE the honour to transmit to your Lordship the enclosed copy of a letter from the Board of Trade on the subject of some newspaper extracts, forwarded to this Department by Mr. Gilkison, of Brantford, Ontario, relating to certain Amendments proposed in Committee on the Merchant Shipping Bill, 1875.

See ante, No. 15.

Governor General the Right Honourable
The Earl of Dufferin, K.P., K.C.B.
&c. &c. &c.

I have, &c.
(signed) *Carnarvon.*

— No. 17. —

The Earl of *Carnarvon* to the Officer Administering the Government of Canada.

CIRCULAR.

Sir,

Downing-street, 22 October 1875.

WITH reference to my predecessor's Circular Despatch of the 3rd December 1873, I transmit herewith, for your information, and for general publication in the Colony under your Government, a copy of a letter from the Board of Trade, enclosing a copy of "The Merchant Shipping Act, 1875."

2. I request that, in accordance with the desire expressed by the Board of Trade, you will furnish me with an immediate report of any case in which grain, &c., is shipped in British vessels in contravention of the Act, and in such a manner as to endanger human life.

3. I shall be obliged if you will favour me with any observations which may occur to you with reference to the application of the several provisions of this Act to the Colony under your Government.

The Officer Administering the
Government of Canada.

I have, &c.
(signed) *Carnarvon.*

Enclosure in No. 17.

Board of Trade to the Colonial Office.

Board of Trade, Whitehall Gardens,
11 August 1875.

Sir,

I AM directed by the Board of Trade to enclose a copy of "The Merchant Shipping Act, 1875," and to request your attention to the 3rd section of this Act, relating to the carriage of grain and other seeds or nuts in British ships.

I am to suggest that a copy of this Act should be sent to the Governors of all Colonies from which grain is shipped.

I am further to suggest that instructions may be given to cause an immediate report to be sent to the Board of Trade of any case in which grain, &c., is shipped in British vessels in contravention of the Act, and in such a manner as to endanger human life.

The Under Secretary of State,
Colonial Office.

I have, &c.
(signed) *Thomas Gray.*

— No. 18. —

The Earl of *Dufferin* to the Earl of *Carnarvon*.

Canada.

My Lord,

Ottawa, 10 February 1876.

IN reply to your Lordship's Circular Despatch of the 22nd of October last on the subject of the Merchant Shipping Act, 1875, I have the honour to enclose a copy of a Minute of my Privy Council, to which is attached a Report from the Minister of Marine and Fisheries.

2. Your Lordship will observe that, in reference to the desire expressed by your Lordship to be furnished with a Report of any cases in which the Merchant Shipping Act, 1875, had been contravened in Canada, the Minister of Marine states that as the Canadian Acts by which the Merchant Shipping of Canada is regulated are not only in accordance with the Imperial Act referred to, but are more stringent in their provisions, and are strictly enforced, it is not possible that such cases can have occurred. From this statement, however, are excepted those vessels which carry grain on inland Canadian waters, as they are not subject to the same inspection.

3. I shall wish especially to call your Lordship's attention to the representations made by the Minister of Marine in reference to the apprehensions felt by Canadian shipowners with regard to the disabilities under which it is believed that Canadian vessels as compared with vessels of foreign countries, will be placed by the operation of the Imperial Act in question; and I should feel much obliged if your Lordship, at your earliest convenience, would enable me to inform my Ministers of your opinion as to the desirability of their being represented in London by an agent in the manner suggested by the Minister of Marine; and your Lordship would also confer a favour upon me if, in consideration of the important bearing which the proposed legislation has upon Canadian interest, you could cause steps to be taken by which my Ministry, in accordance with their desire, might be put in possession of copies in advance of the Bill relating to merchant shipping, which it is intended to introduce this year into the Imperial Legislature.

The Right Honourable The Earl of Carnarvon,
&c. &c. &c.

I have, &c.
(signed) *Dufferin.*

Enclosure 1, in No. 18.

COPY of a REPORT of a Committee of the Honourable the Privy Council approved by His Excellency the Governor General, on the 9th day of February 1876.

THE Committee of the Privy Council have had under consideration the Circular Despatch from the Right Honourable Her Majesty's Secretary of State for the Colonies, dated 22nd October 1875, transmitting a letter from the Board of Trade with copy of "The Merchant Shipping Act, 1875," and requesting to be furnished with an immediate report of any case in which grain, &c., was shipped in British vessels in contravention of the Act referred to, and in such manner as to endanger human life.

They have also had before them the report, hereunto annexed, from the Honourable the Minister of Marine and Fisheries, to whom the above-mentioned Despatch and its enclosures were referred, and they respectfully submit their concurrence therein, and advise that a copy thereof and of this Minute be transmitted for the information of Lord Carnarvon.

Certified,
(signed) *W. A. Hensworth,*
Clerk, Privy Council,
Canada.

Enclosure 2, in No. 18.

Ottawa, 8 February 1876.

THE undersigned has the honour to report to Council that he has had under consideration Despatch from the Earl of Carnarvon of the 22nd October last, transmitting a copy of a letter from the Board of Trade enclosing a copy of "The Merchant Shipping Act, 1875," and requesting to be furnished with an immediate report of any case in which grain, &c., was shipped in British vessels in contravention of the Act referred to, and in such manner as to endanger human life.

The undersigned begs to state that in all cases where grain is shipped in seagoing vessels at Montreal or Quebec, the principal grain-loading ports in the Dominion for countries abroad, it is loaded under the superintendence of the port wardens, as required by the Port Wardens Acts, copies of which, as well as a copy of "The General Port Wardens Act, 1874," are herewith accompanying. The Acts referred to contain the necessary provisions for the inspection of vessels and cargoes while loading, and have been found to work well, and are much more stringent and exact in details than the Merchant Shipping Act of 1875. Consequently vessels loaded at Montreal and Quebec under these Acts are loaded, not only in accordance with the provisions of the Merchant Shipping Act of 1875, but with many more precautions as regards safety.

Not printed.

The undersigned also observes that the Acts in question have been found satisfactory, and have tended in their operation to the safety of life and property, as, since they took effect, no loss has been reported of grain-laden vessels from the ports in question on account of unseaworthiness or improper loading, while in 1872, prior to their coming into operation, six steamships laden with grain were wrecked or foundered at sea on their passage from the St. Lawrence to Europe, it is believed, on account of their being overloaded or improperly stowed.

There is a class of vessels, however, which carry large quantities of grain in the inland Canadian waters, but as no officers have been appointed to inspect such vessels, the undersigned is not aware whether they have carried grain since the 1st October last in contravention of the Act. No such cases have been reported to his department.

With reference to the request of Lord Carnarvon to be favoured with any observations in regard to the application of the several provisions of the Merchant Shipping Act of 1875 to Canada, the undersigned remarks that there has been much excitement and uneasiness amongst Canadian shipowners relative to this Act, and to the prospect of further Imperial legislation next Session in respect to their seagoing vessels, a large portion of which are engaged in the carrying trade of the United Kingdom and foreign countries.

In the 2nd Section of the Act power is given to one-fourth of the seamen belonging to any British ship to have such ship detained by the surveyors of the Board of Trade, and the undersigned is of opinion that this power is too great to be exercised by so small a proportion of the crew, and that it should not be entrusted to a smaller number than one-third or one-half of the crew, especially as sailors when they first join a ship are frequently not in a fit state to form an opinion on such a subject.

With reference to the power of a Board of Trade surveyor to direct the unloading of a ship on account of alleged unseaworthiness of the hull, the undersigned is of opinion that such power should be modified, and that a certificate of classification by British Lloyd's, Liverpool Underwriters' Registry for iron vessels, Bureau Veritas, or by the Canadian Government

Government whenever a system of classification shall be established, shall be received as *prima facie* evidence of the seaworthiness of the hull.

With reference to the 3rd Section of the Act, which applies to Canadian vessels in Canada, prohibiting the loading of grain, if exceeding one-third of the cargo, unless it is contained in bags, sacks, or barrels, or is secured from shifting by boards, bulkheads, or otherwise, the undersigned recommends that Canada shall be exempted from the operation of this section, as he has shown that the Canadian Legislature has already made much better provision for the loading of grain in seagoing vessels than is contained in this Act, and has provided the proper officers to superintend the loading of such vessels, and to certify them as seaworthy before they are allowed to proceed to sea. There are many Canadian and United States vessels engaged in carrying grain on the great inland lakes between the United States and Canada, and the effect of this section if carried out would be to render Canadian vessels liable to penalties from which United States vessels would be exempt; and as there is keen competition between Canadian and American vessels on the great lakes, this restriction on Canadian vessels would certainly turn the scale, and throw the carrying trade into the hands of the owners of United States vessels, a state of affairs which would not likely be submitted to by Canadian shipowners without complaint.

The undersigned is of opinion that no Imperial legislation should take place affecting the question of seaworthiness, or loading of Canadian vessels in Canadian waters. The Canadian Legislature is the proper authority to deal with such questions, and when it becomes necessary to legislate for the safety of Canadian vessels in Canadian waters, he has no doubt the Canadian Parliament will be quite ready to do so, as it has already done in the past.

With reference to the 5th Section, which applies to Canadian ships in Canadian waters, and provides for the marking of the deck lines, the undersigned remarks that he sees nothing objectionable in it.

With regard to the 6th Section of the Act, providing for an owner's load line on all British vessels clearing from the United Kingdom, the undersigned also sees nothing objectionable in it, as it does not apply to Canadian ships until they reach the United Kingdom; and as it is not an official load line (indicating the depth to which it would be safe to load the ship), but merely indicating the maximum load line in salt water to which the owner intends to load his ship for that voyage.

With reference to the general policy of recent Imperial legislation relating to British merchant ships, which include Canadian ships, the undersigned remarks that a number of communications, in the shape of petitions, memorials, and verbal statements from owners of Canadian seagoing ships and boards of trade have reached his department, urging the Canadian Government to take some steps to protect Canadian shipping from the effect of Imperial legislation, so as to place Canadian ships while competing in the carrying trade, on as favourable a footing in British and foreign ports as foreign ships.

Under the present Imperial law, British ships engaged in carrying grain are liable to certain penalties, not only in the carrying trade of the United Kingdom, but also in that of any part of the world.

Foreign ships are not liable to these penalties, which have created much dissatisfaction among British shipowners, and if a remedy could be found for this unsatisfactory state of affairs, which places foreign ships in a more advantageous position than British ships, it is probable much of the discontent which now prevails among Canadian shipowners with reference to Imperial legislation would disappear; and the undersigned is of opinion that one of the best remedies which can be found to allay much of the present uneasiness and excitement in connection with this question, would be to provide in any future legislation that all foreign vessels when in ports of the United Kingdom should be subject to the same restrictions, inspections, and penalties as British ships.

This principle has been in full operation for some time in Canada in respect to vessels loaded with grain, and vessels carrying deck-cargoes, thus placing all vessels, both British and foreign, on the same footing in Canadian waters. The tendency of recent Imperial legislation, with reference to merchant shipping, has been practically to make a discriminating difference in favour of foreign, as against British ships.

He has reason to believe that cases have already occurred where merchants have had cargoes to ship in the United Kingdom, which they were anxious to have placed at their destination as soon as possible, and that in making their selection of vessels, they had given a preference to foreign over British ships, on account of the certainty which existed, in the case of foreign ships, that no detention would arise owing to alleged unseaworthiness or overloading.

Legislation which has such an effect as this, favouring the foreign ship as against a British ship while loading in British ports, is not based on a sound principle, and cannot be satisfactory or permanent, and some solution of the difficulty must therefore be found before Canadian shipowners will rest satisfied or cease agitation.

It is not reasonable to assume that the owner of a Canadian ship which has just completed taking in a full cargo, say of coals, in an English dock, alongside a foreign ship of the same size with an equal quantity of coals on board, will be satisfied when directed by a Board of Trade surveyor to take a portion of his cargo out, say 100 tons, thus losing time and a portion of his freight, and incurring additional dock dues and charges, while the foreign ship proceeds to sea immediately without any risk of detention or additional charges to which her less fortunate rival alongside has been subjected.

It is possible it may be argued, as against the proposition to treat all vessels alike, foreign as well as British, that foreign Governments may retaliate on British ships, and pass such laws as may cause their detention, expense, and annoyance while in their ports; but the undersigned is of opinion that there is very little force in this argument, as no foreign Government would be likely to legislate in this respect in a different manner for foreign ships than for ships of their own country; and if they did legislate in the direction of recent British legislation for the safety of life and property, the undersigned cannot see that either the British Government or British shipowners could reasonably object to it.

He believes that the rules relating to the loading of guano on the West Coast of South America apply to all vessels indiscriminately, and he cannot see that Canadian shipowners, who employ a large amount of their tonnage in that trade, can fairly object to such rules, arbitrary though they be, when they are aware that they are enforced on all alike.

If foreign ships are to have equal rights and privileges in the British carrying trade with British ships, care must be taken in future legislation that no undue advantage be given to them in any respect whatever, either directly or indirectly. Legislation having any other effect must eventually be injurious to the interests of British shipowners, and end to the depreciation and reduction of our mercantile marine.

With regard to British ships in foreign ports, the undersigned is of opinion that no Imperial legislation should be adopted rendering such ships liable to any restrictions or penalties while carrying cargoes from foreign ports to the United Kingdom, or from one foreign port to another, as it would certainly give an undue advantage to the foreign ship over the British ship, and would thereby have the effect of depriving British ships of the benefit of the foreign carrying trade which they now enjoy to a large extent; and he would respectfully suggest, as a subject well worthy of the consideration of the British Government, whether it might not be advisable to enter into negotiations with foreign Governments with the view of inducing them to adopt legislation similar to that which has been or may be adopted by the Imperial Parliament for the safety and protection of life and property.

The undersigned also recommends that the Imperial authorities may be requested to furnish the Canadian Government with an advance copy of the proposed Merchant Shipping Bill of 1876, as soon as it is printed, in order that they may have an opportunity of ascertaining whether it contains any provisions objectionable to Canadian shipping; and if so, that such action may be taken in the premises as the Government may consider necessary for the protection of Canadian interests, by the appointment of an authorised agent to confer with the Imperial authorities in London while the Bill is under discussion in Parliament or otherwise, as may be deemed advisable.

The undersigned would suggest that Lord Carnarvon be consulted as to the desirability of this Government being represented by an agent as above indicated, and if this course meets his approval, that he be requested to name the time when, in his opinion, the agent should be in London.

Respectfully submitted,
(signed) *A. J. Smith*,
Minister of Marine and Fisheries.

— No. 19. —

(M. 3321.)

Colonial Office to Board of Trade.

Sir,

Downing-street, 26 February 1876.

See ante, No. 18.

I AM directed by the Earl of Carnarvon to transmit to you, for the consideration of the Board of Trade, a copy of a Despatch from the Governor General of Canada, enclosing a Report of the Canadian Privy Council on the Imperial Merchant Shipping Act, 1875, and on the subject generally of the restrictions which have been placed on Canadian shipping by Imperial legislation.

2. Lord Carnarvon requests that the immediate attention of the Board of Trade may be given to this letter and its enclosures, and he particularly desires that he may be informed as soon as possible whether the Board concur with him in thinking that it will be expedient to telegraph to the Governor General of Canada, inviting the presence here of a representative of the Dominion Government to confer with the Board of Trade and this office while the Merchant Shipping Bill of the present Session is under discussion in Parliament.

3. His Lordship also requests that copies of the Bill above referred to, and of any amendments which the Government may propose to make to it, may be sent to this office before Thursday next, in order that they may be transmitted to the Government of Canada by the mail of that day.

4. Lord

4. Lord Carnarvon would further wish to be favoured with the observations of the Board of Trade with respect to what appears to him the very important question raised by the Canadian Government as to the disadvantages in which British shipping would appear to be placed as compared with foreign shipping; and I am to add that in his Lordship's opinion it may become a matter for serious consideration how far Her Majesty's Government will be in a position to maintain the principle of subjecting Canadian vessels to restrictive measures from which United States and other foreign vessels are exempt.

I am, &c.
(signed) *Robert G. W. Herbert.*

The Assistant Secretary,
Marine Department, Board of Trade.

— No. 20. —

(M. 3321.)

Board of Trade to Colonial Office.

Board of Trade, Whitehall Gardens,
29 February 1876.

Sir,

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 26th instant, and to say that the Board of Trade sees no objection to the presence of a representative of the Dominion Government during the discussion upon the Merchant Shipping Bill; and they concur with Lord Carnarvon in thinking that, as the discussion upon the Merchant Shipping Bill is likely to be commenced in the House of Commons in about 10 days' time, it will be very desirable that a telegram should be dispatched to Canada inviting the presence of such a representative, and assuring him of the willingness of the Board of Trade to confer with him upon the subject. In the other points raised in the letter from the Colonial Office, an answer shall be sent very shortly.

I have, &c.
(signed) *Edward Stanhope.*

To the Under Secretary of State,
Colonial Office.

— No. 21. —

From Colonial Office to the Earl of *Dufferin.*

Telegram.

Downing-street, 29 February 1876.

Board of Trade gladly accept offer to send representative to confer on Merchant Shipping Bill; he should come as soon as possible. Further reply to your Despatch 37, of 10th February, will be sent early.

— No. 22. —

(M. 3321.)

Board of Trade to Colonial Office.

Board of Trade, Whitehall Gardens,
1 March 1876.

Sir,

I AM directed by the Board of Trade to forward six copies of the Merchant Shipping Bill of 1876, for transmission to the Government of Canada on Thursday next, according to your request.

The Board of Trade have had under consideration Mr. Herbert's letter of the 26th ultimo, with its enclosures, and observe with satisfaction that most of the provisions of the Act of last year do not seem to be objectionable to the Canadian shipowners,

shipowners, inasmuch as it is proposed in the Bill of this year substantially to re-enact them.

The Board of Trade is not surprised to find that apprehensions have been entertained in Canada upon this subject; but they believe that they have been aroused more by the vague proposals which have been brought forward by certain individuals in this country, than by the action which Her Majesty's Government has adopted in relation to Merchant Shipping.

But the most important subject to which attention of the Board of Trade has been called in Mr. Herbert's letter, has reference to the disadvantages under which British shipping would appear to be placed, as compared with foreign shipping, by any legislation upon the subject; and it is stated that, in Lord Carnarvon's opinion, "it may become a matter for serious consideration how far Her Majesty's Government will be in a position to maintain the principle of subjecting Canadian vessels to restrictive measures from which United States and other foreign vessels are exempt."

The Board of Trade is of opinion that the representations addressed to Lord Carnarvon by the Dominion Government afford the strongest reason for avoiding all unnecessary or harassing legislation, but they think it desirable to call the attention of Lord Carnarvon to the very serious results which might ensue from the adoption of any such novel principle as that of treating Canadian ships as foreign ships.

1. First of all, it will be impossible to enforce our own laws against our own ships. Ships built in Canada are now owned promiscuously by residents in Canada and in the United Kingdom; and if ships registered in Canada are to be exempt from our laws, every bad colonial-built ship hailing from the United Kingdom (and they are amongst the most unsafe) will be registered in Canada, and will thus escape the laws both of Canada and the United Kingdom.

2. The distinction between Canadian and other British ships will be purely nominal. It will depend simply on the question whether the ship is entered upon the book of a Canadian or of some other British port. The qualifications of ownership, viz., that the owner must be a British subject, will be the same, for a Canadian is a British subject. A Liverpool merchant may register his ship in Quebec, and a Quebec shipowner may register his ship in London.

3. But though the essential difference between a Canadian and other British ships will be nil, the consequences of the distinction will be of the gravest character.

The Canadian ship will carry the laws of her own colony, and not the Imperial laws, with her.

(a.) Her title will no longer be one that can be transferred from Canada to England, from England to Australia, or back to Canada, and which, if registered in any one port of the empire, is good in every other port. It will be confined to Canada, and when it is to be transferred to any other port of the empire, it will have to be dealt with as if the ship were foreign.

(b.) The ship will not carry with her throughout the empire her own law of discipline. The law of Canada, and not the Imperial law, will apply to her; and when the master of a Canadian ship seeks in Liverpool to enforce the law against a deserter, or a seaman seeks to recover his wages, he will no longer be able to apply to the magistrate under the Imperial Act, but will be treated as a foreigner, and must seek such remedies, if any, as English law gives to foreigners.

(c.) The Canadian ship will, on the assumption in question, carry her own flag. She will no longer be a part of Britain, and enjoy the privileges and protection of the Imperial flag and character. What will be her position? What her nationality? What will be her rights and duties in case of war? What will other nations say to her?

It is unnecessary to do more than refer to such questions as these. It is possible that they may have to be faced and worked out. But the difficulties and dangers they involve are obvious. And they show very clearly how extremely cautious

we should be before we listen to a suggestion for loosening the bonds which have hitherto kept the shipping of the empire under one flag and jurisdiction.

I have, &c.
(signed) *Edward Stanhope.*

To the Under Secretary of State,
Colonial Office.

— No. 23. —

The Earl of *Carnarvon* to the Earl of *Dufferin*.

My Lord,

Downing-street, 2 March 1876.

I HAVE already informed you by my telegram of the 29th of February, that the Board of Trade gladly accept the offer of your Government to send a representative to this country to confer with Her Majesty's Government on the subject of the Merchant Shipping Bill now before Parliament, and that he should come to this country as soon as possible.

See ante, No. 21.

I now enclose six copies of the Merchant Shipping Bill as brought into Parliament, and I shall hope to be in a position to address you further at an early date with regard to the important questions treated of in the Minute of your Privy Council enclosed in your Despatch No. 37 of the 10th of February.

See ante, No. 18.

I have, &c.
(signed) *R. G. W. Herbert.*

Right Hon. the Earl of Dufferin, K.P., K.C.B.,
&c. &c. &c. For the Earl of Carnarvon.

— No. 24. —

(M. 3855.)

Colonial Office to Board of Trade.

Sir,

Downing-street, 4 March 1876.

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 1st instant, containing the observations of the Board of Trade on the Despatch of the Governor General of Canada (No. 37 of the 10th February) on the subject of the Imperial Merchant Shipping Act, 1875, and the restrictions placed on Canadian shipping by Imperial legislation, of which a copy was forwarded to you in my letter of the 26th of February.

See ante, No. 22.

2. Lord Carnarvon fully recognises the difficulties which, as stated in your letter would arise if an attempt were made to treat Canadian ships as foreign ships in English ports. There is, however, another aspect of the case which the Canadian Government would appear to have had more directly in view, and in accordance with which they would seem in their present application to submit, that the injustice (as perhaps they would term it) which the contemplated legislation would work upon their shipping might be obviated if foreign vessels were treated in the same manner as Canadian vessels in English ports. According to this view, the Canadian Government would assent to whatever restrictions the Imperial Parliament might think fit to place upon shipping in English ports, under the belief that nothing would be enacted by Parliament but what was necessary for the safety of ships and crews, but they would ask that the same restrictions should be imposed upon a French or German vessel lying in an English dock as upon an English or Canadian ship.

3. Looking to the nature and objects of the proposed legislation, and to the precedents cited by the Canadian Government, Lord Carnarvon cannot but feel much pressed by the arguments advanced, and he would be glad to be favoured at an early date with any remarks which the Board of Trade may desire to offer on this view of the case.

4. The copies of the Merchant Shipping Bill of 1876, which accompanied your letter, were forwarded to Lord Dufferin by the mail of the 2nd instant.

I am, &c.
(signed) *Robert G. W. Herbert.*

The Assistant Secretary,
Marine Department, Board of Trade

— 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

case

case of the recent law regulating the deck loads in ships carrying timber from Canada in the winter, and that of the law regulating the loading of grain in bulk at Montreal and Quebec. These cases are recent; the laws are passed by the country of export, and in cases where the country itself, or the mother country, possesses by far the larger proportion of the ships engaged in the trade, the regulations are such as are not likely to be objected to, and if they were objectionable there has scarcely been time to hear the objections. At the same time it appears to the Board of Trade that it would not be easy to answer objections from foreign countries (as in the case of France) should such arise. The real security is that there are few, if any, French or other foreign ships concerned, and that no objection is likely to be made.

As regards the reference made by the Canadian Government to the regulations concerning the stowage of grain in some of the ports of the west coast of South America, the Board of Trade have no information, but it would probably not be expedient to take example in these cases from South America.

Only last year, in the excitement arising from the loss of the British steamship "Tacna," the Chilian Government passed a decree empowering their officers to stop any ship, British or foreign, which those officers in their discretion might for any reason think unsafe. Against this decree the Secretary of State, at the instance of the Board of Trade, protested in the strongest terms; with what result, however, it has not yet appeared.

The Board of Trade do not think therefore that these precedents justify a departure from what has hitherto been the practice of Great Britain and of other maritime nations; and it appears to them that a departure from that practice will lead to great inconveniences.

It must be remembered that what is now proposed is not to regulate the export of an article, the produce of this country, a branch of trade which affords special facilities for regulation, but to impose all kinds of restrictions on all foreign ships which, having loaded according to their own laws, either in their own country or in some foreign port, simply come to British ports in the ordinary course of trade to discharge their cargoes, to receive other cargoes, and to proceed on their voyage. It is proposed, *inter alia*, to refuse to receive these ships or their cargoes, unless they have complied with some regulations which did not exist at the port of loading; *e.g.* it is proposed to refuse deck cargoes of timber from the United States or from Norway, although the ships which bring those deck loads have loaded in accordance with their own laws and with the laws of the port of loading, and although they have made the voyage in safety. It is proposed, above all things, that all foreign ships shall be subject to detention, at the instance of the Board of Trade or its officers, for any defect in hull equipments or loading. The enactment is a penal enactment in spirit and intention, and can be enforced only by force or by penalties. It is to be enforced against the foreign ship, not for the sake of the community of the British port at which the ship is, or of British citizens, but either for the safety of the ship and her crew, or in order to prevent that ship from having an advantage in competing with British ships.

The working of this enactment may be illustrated by the case of ships engaged in the timber trade of the Baltic, which mostly belong to Baltic countries. It is not a rich trade; it must be economically managed; the ships are poor, though well manned; and to make the most of their business they carry deck loads, and carry them in safety. An interference on the part of British officials with these vessels, an intimation that they must not carry deck loads, or that their hulls must be repaired before they are allowed to leave our ports, would doubtless call forth strong remonstrances from the Norwegian, the Russian, or the German Governments, and might well give rise to unfriendly feelings between the nations.

It may be said that English sailors may sail in the foreign ship, and that our care for them would justify interference on the principle applied in the case of emigrants. This however is a dangerous argument to use. British sailors are much less employed in foreign ships than foreign sailors in British ships, and consequently on this ground foreign nations would have a much larger ground for interference with British ships than this country would have with foreigners; but the analogy does not hold. A seaman by engaging in a foreign ship submits himself to the law of that ship, and it is to that law that he must look both for protection and justice. All practice and all convenience supports this view of the

case. A still more serious argument against the proposal of the Canadian Government is, that it would justify every foreign Government in imposing whatever restrictions or regulations it may think fit on British shipping when within its jurisdiction. It would no longer be possible to remonstrate, as in the case of Chili, and British ships would have to submit to foreign rules, however unreasonable and foolish. It is moreover quite possible that in some countries, and especially in those countries where the desire prevails to protect their own shipping against the competition of foreign shipping, powers of this description might be unfairly used in such a way as to annoy or injure the shipping of other countries, and even when not so used, much mischief might be caused by the natural and probable suspicion that they were so used.

On all these grounds the Board of Trade are of opinion that the course proposed by the Canadian Government is one fraught with mischief and danger. It would involve this country in serious difficulties in administering the law in English ports. It would subject British shipping to vexatious interference in foreign ports, and it would give frequent occasion for international misunderstandings.

I am to add that the Board of Trade have not, either in this or in their former letter, referred specially to certain points in the Canadian case, such as the treatment of Canadian ships when in Canadian waters, because they hope to be able to confer with the representative whom the Canadian Government is sending over before the Merchant Shipping Bill becomes law.

The Under Secretary of State,
Colonial Office.

I have, &c.
(signed) *T. H. Farrer.*

— No. 26. —

(M. 4692.)

Colonial Office to Board of Trade.

Sir,

Downing-street, 22 March 1876.

I AM directed by the Earl of Carnarvon to transmit to you, for the information of the Board of Trade, the enclosed copy of a notice of motion introduced by Mr. Palmer into the Dominion House of Commons respecting Imperial legislation affecting Canadian shipping.

The Assistant Secretary,
Marine Department, Board of Trade.

I am, &c.
(signed) *W. R. Malcolm.*

Enclosure in No. 26.

Mr. Palmer,

Dominion House of Commons,
Friday, 25 February 1875.

ON Monday next, Committee of the whole House to consider the following resolution: "That in the opinion of this House the right of legislation to affect Canadian ships, and the rights and liabilities of the owners thereof belong exclusively to the Parliament of Canada, and that any legislation on those subjects by the Imperial Parliament (except so far as may equally affect Canadian ships, with the ships of all other countries in ports of Great Britain, and such as may affect Imperial interests) would be inconsistent with such exclusive right of the Canadian Parliament, and a violation of responsible Government as conceded to Canada."

— No. 27. —

(M. 4878)

Colonial Office to Board of Trade.

Sir,

Downing-street, 24 March 1876.

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter (M. 3855), of the 16th instant, expressing the views of the Board of Trade on some points connected with the restrictions placed on Canadian shipping by Imperial

Imperial legislation. His Lordship is very sensible that the whole question is full of complication, and its further consideration appears to lead to the conclusion that while every legitimate effort should be made to ensure fuller protection for the crews, any minute interference with the details of shipping arrangements (on the necessity of which interference Lord Carnarvon is not now entering) must tend to give rise to difficulties of a serious character, in dealing with which the Colonies, as well as Foreign Powers, will have to be specially considered.

2. Lord Carnarvon thinks there is considerable force in the arguments of the Board of Trade on the question of treating foreign vessels in British ports in the same manner as British vessels, but the Board of Trade will perceive from the debate in the Dominion House of Commons, of which a copy is enclosed in the separate letter from this department of the 24th instant, that the converse proposal, that in the ports of the United Kingdom Canadian vessels should be treated in the same way as foreign vessels now are, is supported by a strong body of opinion in Canada.

3. Lord Carnarvon shares the hope that it may be possible to come to some satisfactory understanding upon these questions after conferring with the Canadian officer expected in this country, and in the meantime his Lordship will only observe that there cannot but be reason to apprehend that if it is found necessary to impose severe restrictions on British shipping, the Colonial Governments may consider that they have strong ground for urging either that their vessels shall be exempted from those restrictions in common with foreign vessels, or that foreign vessels shall be subjected to similar restrictions.

4. If foreign vessels continue exempted, there may be danger of colonial ships being transferred to foreign flags, in order to obtain similar exemption; while, if they are not exempted, colonial ships, as being British, may be exposed in retaliation to vexatious restrictions in foreign ports, and this again would be another inducement to place them under a foreign flag.

5. The question must resolve itself into a very careful examination of the extent to which interference with the responsibility of the shipowners should be carried, and Lord Carnarvon cannot conceal from himself the serious difficulties which, in a colonial point of view, are raised, and which, if any satisfactory settlement is to be had, must be fairly and fully considered.

I am, &c.
(signed) *Robert G. W. Herbert.*

The Assistant Secretary,
Marine Department, Board of Trade.

— No. 28. —

(M. 4878.)

Board of Trade to Colonial Office.

Board of Trade, Whitehall Gardens,
4 April 1876.

Sir,

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 24th ultimo, on the subject of the restrictions placed on Canadian shipping by Imperial legislation.

In reply, I am to state that this Board quite appreciate the difficulties which his Lordship is of opinion will arise by a too minute interference with shipping; and they entirely concur in Lord Carnarvon's views as expressed in the concluding paragraph of your letter.

I am further to state, that the Board of Trade will be glad to confer with the representative, who is expected from Canada, as soon as he arrives, upon the subject of the Bill now before Parliament.

I have, &c.
(signed) *T. H. Farrer.*

The Under Secretary of State,
Colonial Office.

— No. 29. —

The Earl of *Dufferin* to the Earl of *Carnarvon*.

(No. 46.)

Canada.

Government House, Ottawa,
18 February 1876.

My Lord,

I HAVE the honour of submitting for your Lordship's consideration a copy of an approved Report of a Committee of the Privy Council expressing their concurrence in a Memorandum by the Honourable the Minister of Marine and Fisheries respecting the custom of deck loading in timber-laden ships.

The Right Hon. the Earl of Carnarvon,
&c. &c. &c.

I have, &c.
(signed) *Dufferin*.

Enclosure in No. 29.

COPY of a REPORT of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor General on the 18th day of February 1876.

THE Committee of the Privy Council have had under consideration the Report hereunto annexed, from the Honourable the Minister of Marine and Fisheries, having reference to a resolution stated to have been passed at a meeting of underwriters and shipowners in Newcastle-on-Tyne, respecting the custom of deck-loading in timber-laden ships, and they respectfully submit their concurrence in the said Report, and advise that a copy thereof and of this Minute be transmitted for the information of Her Majesty's Government.

Certified,
(signed) *W. A. Himsworth*,
Clerk, Privy Council, Canada.

Ottawa, 15 February 1876.

THE undersigned has had his attention called to a resolution which is stated to have been passed on the 15th ultimo, at a meeting of underwriters and shipowners in Newcastle-on-Tyne, England, to consider the practicability of abolishing the custom of deck-loading in timber-laden ships, authorising the secretary to correspond with the Imperial Government recommending that ships of British and Foreign register carrying deck loads of timber be prohibited from entering ports of the United Kingdom at all seasons of the year, and to make such representations to other Governments as will enable them to carry out such resolution.

It would appear from this that there will be some effort made on the part of underwriters and others in the United Kingdom to induce the Imperial Government to propose some provision in the Merchant Shipping Bill of 1876, now before Parliament, to prevent the carrying of deck loads on timber-laden vessels, and in the event of such a provision becoming law, the undersigned is of opinion that it would be very detrimental to the carrying trade between Canada and the United Kingdom.

It will be seen by the accompanying copy of an Act which was passed by the Canadian Parliament in 1873, that deck loads on vessels clearing outwards from Canada have been very much restricted during the winter months, and as this law which was passed after much consideration and discussion in the Canadian Parliament, has been found to work well, and prevents to a great extent loss of life and property at sea, any additional legislation on this subject by the Imperial Parliament would be very embarrassing to the Canadian carrying trade, and very injurious to the owners of Canadian ships engaged in carrying wood between Canada and the United Kingdom. It would also have the effect of increasing the rate of freight on timber deals and other wood goods, exported from Canada to the United Kingdom, by restricting to a considerable extent, the quality of cargo which ships would be allowed to carry, and would thus be detrimental to the wood trade of Canada, which has to compete with wood from the Baltic, on which there is much less freight and insurance.

With reference to the question of safety of ships not having spar decks crossing the Atlantic from Canada to the United Kingdom during the winter months with three feet of
deals

deals on deck as allowed by the Canadian deck-load law, the undersigned begs leave to refer to an exhaustive report on this subject made at the request of the Board of Trade on the 11th December 1860, by Mr. William Smith, his deputy, who was then Comptroller of Customs and Navigation Laws at the Port of St. John, New Brunswick, and which was quoted at much length by Mr. Farrer, the Permanent Secretary of the Board of Trade, in his evidence before the Royal Commission on Unseaworthy Ships in 1873, and which was also printed in the Report of that Commission (Appendix No. 3), from which it will be seen that it was the opinion of practical experienced persons engaged in the Canadian carrying trade and of seafaring men, that a deck load of three feet of deals on a ship which had no spar deck, was not dangerous to the ship in the winter months, and the undersigned is of opinion that the experience of the law passed by the Canadian Parliament in 1873, fully sustains the views held by many persons engaged in this trade with reference to the safety of a moderate deck load of light wood in the winter months.

If deck loads are prohibited from Canada, it will probably again drive shipowners to resort to other means to evade the law as they did in 1860, and he therefore recommends in the event of the Imperial Parliament legislating on this subject that Her Majesty's Government may be requested to take the necessary steps to prevent any Imperial legislation affecting ships clearing from ports in Canada.

Respectfully submitted,
 (signed) *A. J. Smith*,
 Minister of Marine and Fisheries.

Sub-Enclosure in No. 29.

ACT of the PARLIAMENT of CANADA.

36th VICTORIA.

CHAP. 56.

AN ACT respecting DECK LOADS.—Assented to 23rd May 1873.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— Preamble.

1. In this Act the word "ship" includes every description of vessel used in navigation, not propelled by oars; and the word "master" includes any person having command or charge of a ship. "Ship."

2. Every ship shall be subject to the provisions of this Act,— When ships shall be subject to this Act.

(1.) When sailing after the 1st day of October or before the 16th day of March in any year, on a voyage from any port in Canada to any port in Europe, and during the voyage while within Canadian jurisdiction; and

(2.) No master of any such ship shall place, or cause or permit to be placed or remain, upon or above any part of the upper deck of such ship, not included within the limits of any break or poop, or any other permanently closed-in space thereon and available for cargo, the tonnage of which forms part of the register tonnage of such ship,— Certain lading not to be placed on deck.

- (a.) Any square, round, wancy or other timber;
- (b.) Any more than five spare spars, or store spars, made, dressed and finally prepared for use, or not so dressed and prepared;
- (c.) Any cargo of any description, to any height exceeding three feet above the deck.

3. Every ship shall be subject to the provisions of this Act— Ships sailing to the West Indies.

(1.) When sailing after the 15th day of November, or before the 16th day of March in any year, on a voyage from any port in Canada, to any port in the West Indies, and during the voyage while within Canadian jurisdiction; and

(2.) No master of any such ship, if she be a single-decked vessel, shall place, or cause or permit, any cargo whatever to be placed or remain upon or above the deck to a height exceeding by more than six inches that of the main rail, nor in any case greater than four feet six inches above the deck, nor if she has a spar deck shall he place, or cause or permit to be placed or remain, any cargo on or above any part of such spar deck; except that this provision shall not be understood to prevent such master from carrying two spare spars or store spars, made, dressed, and finally prepared for use, on the deck or on the spar deck of such vessel. Certain modes of carrying cargo forbidden.
Exception.

Proviso ; in case of leak or damage to ship.

4. Provided always, that if the master of any ship subject to the provisions of this Act, under the second section thereof, considers that it is necessary, in consequence of the springing of a leak, or of other damage received or apprehended during the voyage, to remove any portion of the cargo thereof, and to place upon any part of the upper deck thereof, not included as mentioned in the said second section, any other or greater portion of such cargo than is by the said second section permitted to be placed upon such part of the upper deck of such ship, or if the master of any ship subject to the provisions of this Act, under the third section thereof, considers that it is necessary from any such cause as aforesaid, to remove any part of the cargo, and to place it on the deck or on the spar deck of such vessel (as the case may be), he may remove or cause to be removed to, and placed upon, such part of the upper deck or on the deck or spar deck of such ship, so much of the cargo thereof, and may permit the same to remain there for such time as he considers expedient.

Customs' officer to ascertain that ship is not loaded contrary to this Act.

5. Before any officer of the Customs permits any ship subject to the provisions of the second section of this Act, to clear out from any port in Canada, he shall ascertain that no square, round, waney or other timber, nor more than five spare spars, or store spars, nor any cargo of any description, to any height exceeding three feet above the deck, is, or are piled, or stored, or placed upon any part of the upper deck of such ship, not included within the limits of any break or poop, or any other permanently closed in space thereon, available for cargo, and the tonnage of which forms part of the register tonnage of such ship, and shall give the master of such ship a certificate to that effect.

Certificate to be given by him before clearing.

6. Before any officer of the Customs permits any ship subject to the provisions of this Act, under the third section thereof, to clear out from any port in Canada, he shall ascertain that no provision of the said third section is contravened in respect of such ship and the cargo thereof, and shall give the master of such ship a certificate to that effect.

Ship not to sail without certificate.

7. No master of any ship shall sail in such ship, when subject to the provisions of this Act from any port in Canada, until he has obtained the certificate required in the case of such ships from the proper officer of the Customs.

Penalty for contravention.

8. Every master of a ship, subject to the provisions of this Act, who contravenes any provisions of this Act shall, for each such contravention, incur a penalty not exceeding, except as hereinafter provided, 800 dollars.

Penalty for contravention after certificate.

9. Every master of a ship, subject to the provisions of this Act, who after having complied with the provisions of this Act, requiring him to obtain a certificate as aforesaid from the proper officer of the Customs, contravenes any other provision of this Act, shall incur a penalty not exceeding 800 dollars.

Sailing with intent to evade this Act to be a misdemeanor.

10. Whosoever, being the master of any ship, with intent to evade any provisions of this Act, sails in such ship after the 1st day of October, or before the 16th day of March in any year, from any port in Canada to any port in Europe, without such certificate as last aforesaid, and with any cargo on any part of the upper deck of such ship, not included within the limits of any break or poop, or any other closed-in space thereon available for cargo and the tonnage of which forms part of the register tonnage of such ship,—or sails in such ship, after the 15th day of November, or before the 16th day of March in any year, from any port in Canada to any port in the West Indies, with any cargo upon the deck, or on the spar deck of such ship (as the case may be), which would prevent his rightfully obtaining such certificate, is guilty of a misdemeanor, and shall be liable to be punished by imprisonment for any term not exceeding two years and not less than three months, or by fine not exceeding 800 dollars, or by both fine and imprisonment in the discretion of the court before which he is convicted.

Penalty.

Ship may be seized and sold to secure payment of penalty.

11. Any ship in respect of which any penalty is incurred under this Act, may be seized and detained by order of the Court by or before which such penalty is imposed or recovered until such penalty be paid, or security given for the payment thereof, and unless payment be made or satisfactory security be given within 30 days, such ship may at the expiration thereof, be sold by order of the Court, and the said penalty and all the costs paid out of the proceeds, the surplus (if any) being paid over to the owner of the ship.

Disposal of penalties.

12. The whole of every pecuniary penalty recovered under this Act shall belong to Her Majesty, and shall be paid over to the Receiver General by the officer or person receiving the same, and shall be thereafter appropriated in such manner as the Governor in Council may direct in each case.

Act not to apply to British Columbia.

13. This Act shall not apply to any vessel sailing from British Columbia.

— No. 30. —

(M. 3935.)

Colonial Office to Board of Trade.

Sir,

Downing-street, 7 March 1876.

I AM directed by the Earl of Carnarvon to transmit to you, to be laid before the Board of Trade, a copy of a Despatch from the Governor General of Canada, with enclosures, respecting the custom of deck-loading in timber-laden ships.

Lord Carnarvon desires me to enclose a copy of a correspondence on this subject, which was presented to Parliament in July 1873.

See ante, No. 29.

Correspondence on Deck Loads Act. Parl. Paper, [C., 823], 1873.

I am, &c.

(signed) *W. R. Malcolm.*

The Assistant Secretary,
Marine Department, Board of Trade.

— No. 31. —

(M. 5303.)

Colonial Office to Board of Trade.

Sir,

Downing-street, 3 April 1876.

WITH reference to previous correspondence, I am directed by the Earl of Carnarvon to transmit to you, for the information of the Board of Trade, an Extract from the Votes and Proceedings of the Dominion House of Commons on the 13th of March with regard to a Resolution proposed by Mr. Mitchell respecting Imperial Legislation affecting Canadian Shipping.

I am, &c.

(signed) *W. R. Malcolm.*

The Assistant Secretary,
Marine Department, Board of Trade.

Enclosure in No. 31.

EXTRACT from the Votes and Proceedings of the Dominion House of Commons on the 13th March 1876.

"MR. MITCHELL moved, that Mr. Speaker do now leave the Chair for the House to go into Committee of the whole, to consider the following Resolution, for the purpose of founding an Address to Her Majesty thereon:

Resolved, As the opinion of this House that any legislation affecting British merchant shipping which may be adopted by the Imperial Parliament should not include in its operation Canadian tonnage, or if such legislation should be applied to Canadian tonnage, it should also include foreign tonnage, in order that no advantage should be had by the latter over the former by the effect of such proposed Imperial legislation.

Mr. *McLeod* moved in amendment that all the words after "that" be expunged, and the following substituted in lieu thereof: "The Despatch forwarded by the Government of the Dominion to Lord Carnarvon under date the *8th February 1876, is approved, and that this House expresses a hope that the views therein contained will be adopted by the Imperial Parliament in any legislation affecting British Merchant Shipping."

* *Qy.* Despatch of 10th February 1876, No. 18, and Enclosures.

Mr. *Langevin* moved in amendment thereto, that all the words after "that" in the said proposed amendment be expunged, and the following inserted instead thereof: "In the opinion of this House it is desirable that the Government should continue the efforts made by the late and present Governments, to ensure the exemption of Canadian shipping from the effects of any Imperial legislation calculated to place Canadian shipping at a disadvantage with foreign ships in British and foreign ports."

And a debate arising thereon, the said debate was, on motion of Mr. Mackenzie, adjourned.

— No. 32. —

Colonial Office to the Earl of *Dufferin*.

My Lord,

Downing-street, 19 April 1876.

WITH reference to my Despatch, No. 45, of the 2nd of March, I have the honour to transmit to your Lordship the enclosed copies of a correspondence* which has taken place between this department and the Board of Trade, arising out of your Despatch, No. 37, of the 10th of February, relating to Imperial legislation as affecting Canadian shipping interests.

I have, &c.

(signed) *W. R. Malcolm,*

for the Earl of Carnarvon.

Governor General,

Right Hon. the Earl of Dufferin, K.P., K.C.B.,

&c. &c. &c.

* See *ante*, No. 18, Colonial Office to Board of Trade. No. 22, Board of Trade to Colonial Office. No. 24, Colonial Office to Board of Trade. No. 25, Board of Trade to Colonial Office. No. 27, Colonial Office to Board of Trade. No. 28, Board of Trade to Colonial Office.
