

1875.

NEW ZEALAND.

EMIGRANT SHIPS' BOATS, AND PENALTIES FOR
BROACHING CARGO AT SEA,

(CORRESPONDENCE RELATING TO).

Presented to both Houses of the General Assembly by Command of His Excellency.

No. 1.

The Hon. Sir J. VOGEL to the Hon. D. POLLEN.

7, Westminster Chambers, Victoria Street, Westminster, S.W.,
11th June, 1875.

SIR,—

I have been in communication with the Colonial Office and with the Board of Trade respecting the inadequacy of the penalties for broaching cargo at sea; and I have the honor to attach hereto copy of the correspondence which has passed on the subject.

The Hon. Dr. Pollen, &c.

I have, &c.,
JULIUS VOGEL.

Enclosure 1 in No. 1.

Mr. MALCOLM to the Hon. Sir J. VOGEL.

SIR,—

Downing Street, 20th March, 1875.

I am directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 2nd instant, in which you express your wish to learn the views entertained by those most competent to judge with regard to the loss of the "Cospatrick," and request to be placed in communication with the proper authorities.

Lord Carnarvon has been in communication with the Board of Trade on the subject, and he now desires me to inform you that the Board of Trade will be glad if you will call there at your convenience and see the Assistant and Professional Adviser of the Marine Department, who will gladly afford you any assistance in their power.

Julius Vogel, Esq., C.M.G.

I have, &c.,
W. R. MALCOLM.

Enclosure 2 in No. 1.

The Hon. Sir J. VOGEL to the Right Hon. the EARL of CARNARVON.

7, Westminster Chambers, Victoria Street, Westminster, S.W.,
3rd May, 1875.

MY LORD,—

Some weeks since your Lordship caused to be sent to me an introduction to the Board of Trade, with a view to my conferring with some officers of that department upon questions relating to emigration.

2. I have had an interview with the gentlemen connected with the Marine Department of the Board of Trade, and I promised to visit the office, but my health has not permitted me to do so. At the interview I have mentioned, I strongly urged some points which I considered it was desirable should, for the safety of emigrants, be attended to; and as it seems to me that my recommendations may have more weight when made direct to you Lordship, if supported by your sanction, I venture to trouble you with this letter.

3. The principal points upon which I wish to dwell are—First, the general condition of boats on board emigrant ships. Second, the existing penalties for broaching cargo.

4. (1.) Apart from the fact that the boats are invariably too few for the number of emigrants on board, I have good reason for believing that they are habitually not kept in a condition fit for use. In the interest of all concerned, I believe that a very simple legislative provision would meet this

difficulty. A clause in a charter-party stipulating that the boats shall be kept in good condition has no effect, because there is no specific penalty for a breach of the stipulation, and, unless in the case of a disaster, which bears its own punishment, no adequate means of deciding how the boats are kept. But if legislative powers were taken, enabling the Board of Trade to decide from time to time the conditions under which boats on board emigrant ships must constantly be kept, and if it were also enacted that a special log-book must be kept in which daily entries must be made by the master and the surgeon as to the state of the boats and their equipment, I believe it would be found that when the boats were required to be used they would at least be serviceable, however inadequate they might be for the number of persons on board.

4. (2.) When wine, spirits, oils, and inflammable substances are allowed to be carried in emigrant ships they should be made as far as possible inaccessible to the sailors or passengers; they should in fact be as jealously guarded as the gunpowder in the magazine. As affecting one most important requirement in this direction, I respectfully ask that your Lordship will consider the present penalties for broaching or pilfering cargo at sea. I have no doubt whatever that the "Cospatrick" was destroyed through the use of matches or naked candles by men while broaching cargo. I would invite your Lordship's attention to the appended letters from the *Times* of the 27th and 30th April. It was not, however, these letters which directed my attention to the frequency and danger of the offence of broaching cargo. Indeed, as you will see, another enclosure to this letter is of an earlier date; beside that, as the result of frequent observation, I made a still earlier representation on the subject to the Board of Trade.

5. I attach hereto the copy of a letter from the solicitor to the Government of New Zealand in London, in reply to a request that he would give me legal information on the subject. Your Lordship will observe that the punishment for pilfering or broaching cargo on the high seas is exceedingly light, whereas the act is so serious an offence against the safety of any ship at sea, and, in the case of emigrant ships, fraught with such horrible consequences, that, as a matter of necessary precaution, scarcely any punishment could be too heavy for it.

6. I most earnestly ask your Lordship to consider whether, in the interests of humanity, the offence of broaching cargo at sea should not be made heavily punishable. In my opinion it should be made a felony, with provisions for enabling the punishment to be meted out at any British port at which the ship touched, and with power to the captain to keep the offender or offenders in irons until they can be brought before a legally constituted Court. It should, I submit, be incumbent upon ship-owners and captains to cause notices describing the penalties for broaching cargo to be kept affixed in prominent parts of ships, so that they may be seen by crew and passengers.

7. If your Lordship will cause inquiries to be made, I am confident that the results will confirm the statement that this offence is now most common, and that, apart from the consequent disputes between shipowners and insurance offices, the commission of it is constantly attended with danger to property and life.

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

I have, &c.,
JULIUS VOGEL.

Sub-Enclosure 1 to Enclosure 2 in No. 1.

[*Times*, April 27.]

UNSEAWORTHY SAILORS.

To the Editor of the *Times*.

SIR,—

Moved by the active exertions of Mr. Plimsoll and others, our Government has been stirred to devise legislative measures for the preservation of life on shipboard. I fear this object is not likely to be attained while we are at the mercy of that noble fellow Jack, on whose behalf such active sympathy has been elicited by the sad tale of his wrongs at the hands of hard shipowners, &c. I venture to ask you to publish for general information the following facts, attested by the surgeon, chief officer, and myself, and recorded in the official log of the ship the "Tweed," which is now deposited at the Board of Trade, and I think it will be evident how many a fine ship has come to the sad fate of the "Cospatrick," and many unfortunate passengers have met a watery grave.

The "Tweed," under my command, sailed in June last from this port for New Zealand, having on board 639 emigrants, and a crew of 54, in all 693 souls. We had a prosperous and speedy voyage, without any drawback, except as regards the crew. We had not been long at sea, when it was reported to me that the cargo was being plundered, and that naked lights were seen in the lower hold among all sorts of merchandise stowed there. Two of the ordinary seamen who had been seen passing sardines and preserved milk into the fore-castle were brought aft, and, after being confined all day, confessed to the surgeon, chief officer, and myself, that they were sent into the hold by the crew, and also that several of the sailors had been a great many times into the hold with naked candles, surreptitiously obtained from the emigrants' lamps. Failing to find any spirits, which I had fortunately stowed aft with a strong bulkhead between them and other cargo, they broke open the emigrants' boxes and cargo packages, and helped themselves to what they could get.

Before sailing, every possible precaution had been taken to prevent the crew gaining access to the hold, but it was accomplished by the men cutting a passage through the coals, removing the bulkhead, and passing out the plunder, which they secreted under the coals until they could get it into the fore-castle.

When this discovery was made, I refused to supply them with tobacco. Then their conduct became disgraceful; they combined to neglect duty in every possible way, shamming sickness, &c., although pronounced by the surgeon to be quite well. Their conduct became daily more mutinous and disorderly, and they could not be kept out of the fore-castle at night, although the ship was running in dark, foggy weather, and in the vicinity of ice; and as the lives on board were in jeopardy by such conduct, I had two of the ringleaders confined in a cabin under the surveillance of the surgeon, which brought about a better state of things among the remainder.

On arrival in Otago, the ringleaders were brought before the police magistrate, and sentenced to four weeks' imprisonment with hard labour for neglect of duty, and eight weeks for embezzlement of cargo.

This is by no means a solitary instance of crews plundering cargo in outward-bound ships; in fact, there is scarcely a vessel going to the colonies whose owner does not have to pay heavily for loss so occasioned; but what is of much more consequence is the danger to valuable lives by crews getting into ships' holds with naked lights amid inflammable cargoes, whereby many a good ship and many unfortunate passengers have been sacrificed, whose fate could never be told, for the ships have been posted as "missing."

While I was in New Zealand, the "Cathcart," another emigrant ship, arrived at Lyttleton with mutiny on board; the crew had plundered the cargo, got at the spirits, and such a state of things arose that in self-defence the captain armed his officers, and three of the men were wounded, for which the captain was tried and acquitted, but the men were sentenced to three months' imprisonment.

If Mr. Plimsoll would take a few trips from the docks to the Downs in some of the outward bound, he would see a little of what masters have to contend with through the drunkenness and bad conduct of "poor ill-used Jack."

Yours, &c.,
WILLIAM STUART,
Master of the "Tweed."

Sub-Enclosure 2 to Enclosure 2 in No. 1.

[*Times*, April 30.]

UNSEAWORTHY SAILORS.

To the Editor of the *Times*.

SIR,—

Having perused a letter with the above heading, inserted in the *Times* of yesterday, from Captain William Stuart, of the ship "Tweed," perhaps you may not think it out of place to insert a short narrative of my experience in command of the ship "Queen of the Age," on her late voyage to New Zealand.

The "Queen of the Age" sailed for Auckland on the 16th of November, 1873, having on board about 170 emigrants and a crew of 30 hands all told. Nothing particular occurred until the 14th of January, 1874, when the second mate reported to me that the coal-hole scuttle in the between decks, although secured by an iron bar, staples, and padlock, had been broken open by the crew; and upon going below into the coal-hole, I found that the bulkhead, separating the cargo from the coals, had also been broken through, and a number of cases opened, containing shawls, Crimean shirts, candles, anchovies, pickles, preserved salmon, and sundry other merchandise, and a large portion of their contents abstracted and gone.

Upon making this discovery, I mustered the crew, and demanded that the stolen cargo should be restored, but was met by a determined spirit of resistance on the part of several of the men, who refused to return the property or do any more duty in the ship, and even threatened the passengers with violence, who they said, had given me information about the robbery.

The passengers now appealed to me for protection, and, after consulting with the surgeon in charge, I issued loaded muskets to them, to be used in their own defence. At the same time several of the passengers volunteered to work the ship for me if the crew refused to do so. The resolute manner in which the passengers supported me and my officers overawed the seamen, who, finding a revolt would be hopeless, after some little hesitation restored the stolen property and returned to their duty.

Having again secured the forehold and placed sixty fathoms of chain cable in such a position as to prevent the possibility of any further plunder, the voyage was continued without any other incident of importance, until arrival at Auckland, on the 2nd of March, 1874, when eight of the ringleaders were sent on shore in charge of the police, and sentenced to three months' imprisonment with hard labour.

The moral of this appears to be, that if a burglar enters a house at night and steals a few trinkets he will most likely get seven years' penal servitude, but if a seaman breaks through a strong bulkhead on board ship, and with a naked light among inflammable goods plunders the cargo, thereby endangering the lives of hundreds, he may reasonably expect to get off with three months' hard labour.

In the case of the "Tweed" and the "Queen of the Age," providentially the plunder was discovered before any injury had been sustained beyond the loss of the property; but if either of these ships had shared the fate of the unfortunate "Cospatrick," a Court of Inquiry would have been held, at which every effort would have been made to censure the captain and owners of the ship, while the noble British sailor, who caused the calamity, would have received a large measure of public sympathy.

My official log-book, in verification of the foregoing facts, has been deposited with the Board of Trade by

Your obedient servant,
EDWARD MONTGOMERY,
Master of the ship "Queen of the Age."

London, 28th April, 1875.

Sub-Enclosure 3 to Enclosure 2 in No. 1.

Messrs. JOHN MACKRELL AND Co. to the Hon. Sir J. VOGEL.

DEAR SIR,—

21, Cannon Street, London, 26th April, 1875.

By the Merchant Shipping Act the penalties imposed upon a seaman for the offence of wilfully damaging a ship, or embezzling or wilfully damaging any of her stores or cargo, is a forfeiture

out of his wages of a sum equal to the loss he has occasioned, and also, at the discretion of the Court, imprisonment for any period not exceeding twelve weeks, with or without hard labour.

By "The Criminal Law Consolidation Act, 1861," penalties are imposed for stealing from vessels in rivers or in port; but there appears to be no special punishment enacted by such Act for broaching cargo on the high seas, except such punishment as might be inflicted for simple larceny, which, under such Act, is either penal servitude for three years, or imprisonment with or without hard labour for not exceeding two years, and with or without solitary confinement. It should be open to question, however, whether, having regard to the special punishment imposed by "The Merchant Shipping Act, 1854," which is not repealed or referred to by the Consolidation Act, 1861, the punishment for larceny could be inflicted as well as that authorized by the Merchant Shipping Act.

No doubt seamen, being as they are well acquainted with the provisions of the Merchant Shipping Act, regard the punishment thereunder as all that would attach to the offence of broaching cargo.

Your suggestion, therefore, that the law upon this subject should, having regard to the disastrous fate of the "Cospatrick," now be reviewed, is evidently a very important one, and we believe would be supported by the shipowners, who have to pay heavily for damages to cargo by the acts of the crew during a voyage.

At present the captain of a vessel appears to have no power of inflicting any punishment upon the crew for such an offence; and it is worthy of consideration whether some power should not be vested in him.

The Hon. Sir Julius Vogel.

We have, &c.,
JOHN MACKRELL AND CO.

Enclosure 3 in No. 1.

Mr. MALCOLM to the Hon. Sir J. VOGEL.

SIR,—

Downing Street, 11th May, 1875.

I am directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 3rd instant offering observations in regard to the condition of boats on board emigrant ships, and to the penalties now imposed by law on the broaching of cargo.

Lord Carnarvon has forwarded a copy of your letter to the Board of Trade, and has recommended your observations to the special attention of that department.

The Hon. Sir Julius Vogel.

I have, &c.,
W. R. MALCOLM.

By Authority: GEORGE DIDSBUXY, Government Printer, Wellington.—1875.