

APPENDIX No. 21.

FISHERY PROTECTION.

CORRESPONDENCE RELATING TO PROTECTION OF THE FISHERIES.

[His Excellency Major-General HASTINGS DOYLE, Administrator of the Government, to
the Right Honorable EDWARD CARDWELL, M. P., &c.]

(COPY.)

(No. 115.)

*Government House, Halifax, N. S.,
4th November, 1865.*

SIR,—

I have the honor to transmit herewith a minute of my Executive Council in relation to the protection of the fisheries on the coasts of British North America after the abrogation of the Reciprocity Treaty, which will expire on the 17th of March next.

Notwithstanding the great commercial advantages which that treaty has conferred upon the United States in common with these Provinces, the Government of that country, acting under the resolutions of Congress, have determined to cause its abrogation.

There can be no doubt that the right to enjoy these fisheries was one of the leading inducements which actuated the Government of the United States in the arrangement of the Reciprocity Treaty, and that there is no way in which they can be made to feel the impolicy of its abrogation more effectually than by the rigorous exclusion of their fishermen from the fishing grounds to which they have had the right to resort during the past ten years.

Independently of the want of any naval force in these provinces, the duty to be performed in the protection of these fisheries will be one of great responsibility and delicacy, in the discharge of which the most serious questions of national interest are not unlikely to arise.

Having reference, therefore, to the character and importance of this service, I trust that her Majesty's Government will be enabled to adopt such measures in this important matter as will effectually protect these fisheries from intrusion, and from the outset assure the Government and people of the United States that they cannot withdraw the commercial advantages conceded to these colonies without losing the privileges which were extended to them in exchange.

I have, &c.,

(Signed)

HASTINGS DOYLE,
Administrator.

The Rt. Hon. EDWARD CARDWELL, M. P.

The Executive Council in committee desire to draw the attention of his Excellency the Administrator of the Government to the great importance of having due preparation made for the efficient protection of the fisheries on the coasts of British North America.

There is but little reason to hope that the Reciprocity Treaty will be renewed, as the Government of the United States have not only given the notice required

to terminate it on the 17th of day of March next, but have, it is understood, declined to entertain any proposals for the renewal of the treaty or the arrangement of another in a modified form.

The right of fishing on the shores of the British North American Provinces conceded by that treaty being highly prized, and having been largely enjoyed during the past ten years by American fishermen, obviously indicates the necessity of prompt and effective measures being taken vigorously to exclude them from our coasts as soon as the treaty terminates, as there is no other mode in which the people and Government of the United States can be made to feel more sensibly the injury they have inflicted upon the commercial interests of their own country by the abrogation of the treaty. It is well known that great difficulty was formerly experienced in protecting the fishing grounds on our coasts from being trespassed upon, and that difficulty must be materially enhanced from the rights enjoyed under the treaty since it came into operation.

As the due protection of these fisheries is of deep importance to the whole of these Provinces, and as the local governments do not possess any naval force, the Council respectfully request his Excellency the Administrator of the Government to bring this matter under the consideration of the Right Honorable the Secretary of State for the Colonies, in the hope that the Vice Admiral on this station may be instructed by her Majesty's Government to detail for this purpose such a portion of the British North American squadron as may be required thoroughly to prevent encroachments within the territorial jurisdiction of her Majesty on the coasts of these provinces.

All of which is respectfully submitted.

PROCLAMATION RELATIVE TO IN-SHORE FISHERIES.

*Government House, Montreal,
February 20th, 1866.*

SIR,—

I have the honor to transmit for your information a copy of a proclamation, which, with the advice of my Council, I have issued, respecting the termination of the right of persons other than British subjects to use the in-shore fisheries of the Province of Canada, after the 17th day of March next, when the Treaty with the United States of America, under which such rights were enjoyed, will expire.

I have, &c.,

(Signed) MONCK.

Lieut. Governor, Sir W. F. WILLIAMS, &c.

PROVINCE OF CANADA.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To all whom these presents shall come, or whom it may concern,—

Greeting :

Whereas, a certain treaty was made between Her Majesty and the United States of America, on the 5th day of June, 1854, providing for reciprocal trade ;

And whereas, the United States of America have, in accordance with the terms of the said treaty, given notice for the termination thereof ;

And whereas, in consequence of such notice, the said treaty will expire on the 17th day of March, 1866 ;

And whereas, under the said treaty, many persons citizens of the United States of America have invested moneys and fitted out ships for the purpose of carrying on the (in-shore) fisheries within the territory of Canada under the said treaty ;

And whereas, they may be unaware that their right to carry on such in-shore fisheries will end on the said 17th day of March :

We, therefore, in our great desire to prevent injury or loss to our loving subjects or to the citizens of a State with which we are happily in amity, do in this our Royal Proclamation caution and warn all persons not subjects of our realm, that after the said 17th day of March next, no vessels owned and manned in the United States of America can pursue the in-shore fisheries without rendering themselves liable to the confiscation of their vessels, and such other penalties, pecuniary and personal, as are by law imposed.

In testimony whereof, &c.

REPORT OF SPECIAL COMMITTEE ON PROTECTION OF FISHERIES.

The Special Committee appointed to consider and report upon the question of the Protection of the Fisheries, have agreed to report as follows :

That your Committee regard the efficient protection of the fisheries on the coasts of British America, to be of the most vital importance to the interests not only of these Colonies, but of all subjects of the Crown of Britain, and recommend that the most prompt measures should be taken to secure the cordial co-operation of the British North American Provinces, and the vigorous aid of the Imperial Government, in thoroughly guarding this valuable public domain from intrusion.

For many years some controversy existed as to the exact limits within which the rights allowed by the Convention of 1818 to citizens of the United States of America, to prosecute the fisheries on the coasts of British North America, could be exercised ; but all doubt upon that question appears to have been set at rest by the opinions of the highest legal authorities.

In 1841 Mr. Stephenson, the American Minister in London, addressed a strong remonstrance to Her Majesty's Government against the extent to which American citizens were excluded from those fishing grounds ; and a Case was prepared by the Law Officers of the Crown in this Province, and transmitted to the Colonial Office, and a report was made thereon by the Queen's Advocate and Her Majesty's Attorney General, dated August, 1841, and which may be found on the 34th page of the Journals of the Assembly of 1843.

This report embodies and reiterates the fact, that by the Convention of 1818, "American citizens are excluded from any right of fishing within three miles of the coasts of British America, and that the prescribed distance of three miles is to be measured from the headlands or extreme points next the sea of the coast, or of the entrance of the bays, and not from the interior of the bays or indentations of the coast."

The Law Advisers of the Crown in England also declared : "We have attentively considered the course of navigation to the Gulf by Cape Breton, and likewise the capacity and situation of the passage of Canso, and of the British dominions on either side, and we are of opinion that, independently of treaty, no foreign country has the right to use or navigate the passage of Canso."

The extent of our rights being thus clearly established, their strict maintenance becomes a matter not only of interest, but of imperative duty. In 1851 a memorandum was agreed to by the Hon. Messrs. Bouret, Howe and Chandler, for the protection of these fisheries, under which it was contemplated that Canada should provide a steamer, or two or more sailing vessels to cruise in the Gulf of St. Lawrence and along the coasts of the Labrador, and Nova Scotia was to continue to employ at least two vessels on the same service, and New Brunswick at least one vessel to be employed in the protection of the fisheries in the Bay of Fundy.

The Colonial Minister in a despatch dated May 27, 1852, stated : "Her Majesty's Ministers are desirous to remove all ground of complaint on the part of the Colonies, in consequence of the encroachments of the fishing vessels of the United States upon those waters, from which they are excluded by the terms of the convention of 1818, and they therefore intend to despatch as soon as possible a small naval force of steamers, or other small vessels to enforce the observance of that Convention."

Under the foregoing arrangements, vessels commissioned by her Majesty's Government, and by the Governor General of Canada, and the Lieutenant Governor of this province, were actively engaged in the protection of the fisheries up to the time when happily the difficulties which arose between British and American interests in relation to the fisheries were set at rest by the Reciprocity Treaty of 1854.

The Government of the United States having seen fit to abrogate that Treaty which had been conducive to the harmony and commercial prosperity of both countries in a marked degree, the necessity is again forced upon the British and Colonial Governments to guard this important industrial resource from unauthorized intrusion.

Your committee would therefore respectfully suggest that so soon as the Treaty expires on the 18th inst., proclamation should be issued warning all persons from trespassing on the coast fisheries of British America, that a conference should be held with the honorable the Legislative Council for the purpose of preparing a joint address to her Majesty for Imperial aid in this important service, and that the Governments of Canada, New Brunswick, Newfoundland, and Prince Edward Island, should be requested to co-operate in the protection of the fisheries.

As the abrogation of this Treaty has again brought in force chapter 8, passed in 1836, entitled, "An act relating to the fisheries, and for the prevention of illicit trade in the province of Nova Scotia, and the coasts and harbors thereof"; by which act power is given to his Excellency to commission vessels to be employed in the protection of our fisheries, your Committee recommend the immediate purchase and equipment of a suitable steamer, to be thus commissioned; and they would further recommend that all the vessels commissioned by the various Provincial Governments for the protection of the fisheries, should be so commissioned by the several Governments, as to empower them to act upon any portion of the coasts of British North America.

All of which is respectfully submitted.

CHARLES TUPPER,
W. A. HENRY,
A. G. ARCHIBALD,
WILLIAM ANNAND,
STEWART CAMPBELL,
THOMAS COFFIN,
JOHN LOCKE,
S. MACDONNELL,
HENRY S. JOST,
JOHN TOBIN.

House of Assembly,
Committee Room, March 5th, 1866.

PROCLAMATION!

BY HIS EXCELLENCY

SIR WILLIAM FENWICK WILLIAMS,

Of Kars, Baronet, Lieutenant General in Her Majesty's Army, Knight Commander of the Most Honorable Order of the Bath, Grand Officer Legion d'honneur, 1st Class of the Turkish Order of Medijee, Lieutenant Governor and Commander-in-Chief in and over Her Majesty's Province of Nova Scotia, and its Dependencies, &c., &c., &c.

[L. S.]

W. F. WILLIAMS.

Whereas, The citizens of the United States, under a Treaty between her Majesty the Queen and the President of that country, signed at Washington on the 5th day of June, A. D., 1854, have since that time, in common with the subjects of her Britannic Majesty, enjoyed the liberty to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbors, and creeks of Canada, New Brunswick, Nova Scotia, Prince Edward Island, and of the several Islands thereto adjacent, without being restricted to any distance from the shore :

And whereas, By virtue of a notice for that purpose, given by the President of the United States, the said Treaty expired on the 17th day of March, instant, and the rights and privileges of citizens of the United States thereunder have ceased and determined,

I do hereby proclaim and make known, That hereafter all vessels and boats belonging to any Foreign Country pursuing the fisheries within the territorial jurisdiction of her Majesty, in the province of Nova Scotia, are by law subject to forfeiture, and the parties engaged therein to penalties, and that the law will be rigorously applied to all cases of trespass on the fishing grounds of Nova Scotia.

Of which all parties will take notice and govern themselves accordingly.

Given under my Hand and Seal at Arms, at Halifax, this
Nineteenth day of March, in the year of our Lord One
Thousand Eight Hundred and Sixty-six, and in the
Twenty-ninth year of Her Majesty's Reign.

By His Excellency's Command.

CHARLES TUPPER.

GOD SAVE THE QUEEN.

[Mr. CARDWELL, M. P., to Sir W. F. WILLIAMS]

(COPY.)

(Nova Scotia.—No. 16.)

Downing Street, 14th April, 1866.

SIR,—

I have the honor to acknowledge the receipt of your despatch, No. 22, of the 15th ultimo, enclosing an address to the Queen from the Legislative Council and House of Assembly of Nova Scotia.

I have laid this address before the Queen, and her Majesty was pleased to receive it very graciously. I have it in command to acquaint you that her Majesty's Government have caused such instructions, as they have deemed necessary and proper, to be issued for the protection of the rights of her Majesty's subjects in respect of the British North American Fisheries.

I have, &c.,

(Signed)

EDWARD CARDWELL.

Lieutenant Governor,

Sir W. F. WILLIAMS, &c., &c.

(COPY.)

(Nova Scotia —No. 18.)

Downing Street, 14th April, 1866.

SIR,—

I have the honor to acknowledge the receipt of your despatch marked separate, of the 29th ult., enclosing a copy of the Report of the Special Committee of the House of Assembly for the protection of the fisheries, with copies of despatches addressed by you to the Governor General of Canada and the Lieutenant Governor of New Brunswick.

You will clearly understand that it is the wish of her Majesty's Government that all Colonial vessels should be placed under the orders of the officer commanding on the station.

I have, &c.,

(Signed)

EDWARD CARDWELL.

Lieutenant Governor,

Sir W. F. WILLIAMS, &c., &c.

