

Appendix (K).

Memorandum as to Deep-sea Fisheries and Use of Canadian Ports as a Base of Supplies.

THE cod fishery, and other fisheries in the *deep sea*, in North America, were the principal objects (in America) of the various struggles which took place between France and England prior to the American War of Independence.

By the Treaty of 1763 between France and England, although fishing rights were conceded to France, it was stipulated that her vessels were not to take fish within 9 miles (3 leagues) of the shores of the Gulf of St. Lawrence, or within 45 miles (15 leagues) of the shores of Cape Breton.

Indeed, at that time, when the "British fisheries" were spoken of, they were understood to include, not only fisheries at distances of that extent, but likewise the fisheries on the banks of Newfoundland. This will more fully appear hereafter.

By the Treaty of 1778 between France and the United States (Article X) the United States agreed that France should not be disturbed "in the enjoyment and exercise of the right of fishing on the Banks of Newfoundland."

It is apparent from this that the United States contemplated making a struggle for the fisheries on the Banks, as being held by the British, instead of claiming them as the property of the whole world, according to the modern doctrine. It shows likewise that France thought it necessary to guard them by express Treaty stipulation. (The right of fishing on the Banks was expressly mentioned in the Treaty of 1783.)

Lord Dundonald, in August 1852, wrote a letter to the London "Times" referring to the fisheries on the Banks as a maritime subject of vital importance, and he refers to them as "the British North American fisheries."

He says that—

"The British Bank, or deep-sea fishery, formerly employed 400 sail of square-rigged vessels and 12,000 seamen, and that now not one of these follow their vocation, in consequence of the ruinous effect of bounties awarded by the French and North American Governments."

In 1793 a witness before a Committee of the House of Commons said that—

"The Island of Newfoundland had been considered in all former times as a great English ship moored near the Banks during the fishing season for the convenience of English fishermen, and that the Governor was considered the ship's captain, and all those concerned in the fishing business as his crew, and subject to naval discipline."

When this state of affairs is recalled, one can understand the immense expenditures made by France in fortifying Louisburg and in holding her possessions in North America. It is the key likewise to the struggles made by England and the New England Colonies to dispossess her, and explains the two expeditions which came from New England for the capture of Louisburg. The success of these expeditions was declared to have counterbalanced the ill success of England on the Continent of Europe.

Chesterfield wrote:—

"I would hang any man who proposed to exchange Louisburg for Portsmouth."—(Correspondence of the Duke of Bedford, vol. i, p. 18.)

These fisheries were described in the British House of Commons as being worth more than the whole of Canada.

A further proof that the United States had reason to apprehend exclusion from the *deep-sea* fisheries in North America, and that these were the fisheries which they had in view in these Treaties with Great Britain, is furnished by the fact that on the 10th February, 1775, Lord North introduced a Bill in the British House of Commons which became law, and which prevented the inhabitants of Massachusetts, New Hampshire, Connecticut, Rhode Island, and Providence "from carrying on any fishery on the Banks of Newfoundland" and certain other places.

Lord North argued that the fishery on the Banks of Newfoundland and the other Banks in America was the undoubted right of Great Britain, and that therefore such disposition might be made of it as she pleased. In the long debate which took place on this Bill the Opposition resisted it on the ground that it would have the effect of starving the colonists. When it was replied that the colonists would have the inshore fisheries and the river fisheries, Burke replied thus:—

"Nothing can be more foolish, more cruel, and more insulting than to hold out as a recourse to the starving fishermen, ship-builders, and others employed in the trade and fisheries of New England that after the plenty of the ocean they may poke in the brooks and rake in the puddles, and diet on what we consider as husks and draught for hogs."

In 1779, when propositions were made to open a negotiation for peace, Mr. Gerry moved in Congress, *inter alia*:—

"1. That it is essential to the welfare of these United States that the inhabitants thereof, at the expiration of the war, should continue to enjoy the free and undisturbed exercise of their common right to fish on the Banks of Newfoundland and the other fishing banks and seas of North America, preserving inviolate the Treaties between France and the said States."

Mr. Adams' instructions in 1779 adopted these exact words.

A somewhat famous expression by Mr. Adams in course of negotiations for the Treaty of 1783 shows that the *deep-sea* fisheries were the principal subjects of controversy. In discussing whether the enjoyment of them should be called a "liberty" or a "right," he said:—

"When God Almighty made the Banks of Newfoundland at 300 leagues' distance from the people of America and 600 leagues from those of France and England, did he not give as good a right to the former as to the latter?"