

the Government of this Colony towards American fishermen was submitted to the people at the polls in my Manifesto of 1904, and a mandate was received from the people to effect that change.

The law which we are required to enforce has been upon the Statute Book for nearly 20 years, and it was only relaxed for a time, in the case of Americans, because the Government of the United States of America had entered into a trade convention with His Majesty's Government on behalf of this Colony, which provided for such relaxation and the ratification by the United States Senate of the said Convention. The United States Senate having failed to ratify the Convention the obligation on the part of this Government ceased, and the law al- luded to became active.

While it was and is quite competent for the Government of this Colony to suspend or limit the operation of the Bait Act, or if sufficient and extraordinary reasons could be adduced for the Imperial Parliament to suspend the operation of the Act in defiance of this Government, I humbly and respectfully hold that no power of suspension, limitation or abrogation of this law, or of any law of this Colony which has received the Royal assent, is vested in His Majesty's Ministers, or even in the Crown itself, and therefore if the *Modus Vivendi* "pledges His Majesty's Government to the Government of a foreign power" in the matter of such suspension, limitation or abrogation, it is an illegality to which His Majesty's Ministers in this Colony cannot consent to become parties.

The Bill of Rights—"An Act declaring the Rights and Liberties of the Subject"—very clearly sets forth:—

"That the pretended power of suspension of laws, or the execution of laws, by Royal authority without the consent of Parliament is illegal."

I can well believe that the proceedings upon which this Government have entered may prove very embarrassing to His Majesty's Government, but while I sincerely regret that any action of ours should occasion such embarrassment, or even contribute towards the same, I cannot conceive that it would have been consistent with our duty to abstain from what we regard as a proper course on that account. One fact is clear and indisputable. The embarrassment that is occasioned, or that will be occasioned, is not by reason of the wrong-doing of this Government. On the contrary, they have endeavored to the utmost of their ability, consistent with their

sense of duty to those they represent, to prevent it, by faithful representation; by humble and respectful protest; but they have failed. If His Majesty's Government have acted justly towards this people and within their powers then no embarrassment can possibly ensue from the action of this Government. If, on the other hand, they have acted unjustly, or if there are reasonable grounds for concluding that they have so acted, then I am confident that the House will agree that the course adopted by this Government was entirely proper. We entered upon this policy with no desire to embarrass His Majesty's Government, but with a firm resolve to assert the Colony's rights. I feel certain that it will be admitted as a general principle that

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and that the Colony has a right to apply for redress if it can be established that the Americans are exercising privileges which the Treaty of 1818 does not justify, and that no mere diplomatic agreement can give them; also, that when England has granted a Constitution her honor is as much concerned in the maintenance of the Constitution as in any other way. Both these questions are involved in the issue before us.

It will be noticed on reference to the papers that have been tabled that in his despatch of the 6th of October the Secretary of State expressed the desire that this Government would issue instructions to the fishermen on the Treaty coast to observe the *Modus Vivendi*. This Government did not give such instructions; neither did they promulgate the *Modus Vivendi* in any manner whatsoever. They did not do so because they had informed His Majesty's Government repeatedly that they could not be parties to it in any way. They declined to aid in carrying it out because they regarded it as unlawful and unjust: as an abrogation of our constitutional rights, and as overriding our law, and they proposed to test its validity in the Supreme Court of this Colony. On the 25th of October His Majesty's Government were advised accordingly.

The embarrassment occasioned this Government by the announcement of the conclusion of the *Modus Vivendi* was aggravated and greatly intensified by the remarkable conduct of the Senior Naval Officer on this station. H.M.S. *Brilliant* arrived at Bay of Islands on the 19th of October, and the same evening a meeting of the fishermen in Birchy Cove was