

THE CANADIAN FISHERY AND NAVIGATION QUESTIONS.

(From the *London Globe*.)

A very superficial glance at the passage of the American President's Message which was devoted to the allegations against Canada will suffice to show that it is not entitled to any great weight. If the charges set forth in general terms to the discredit of the Dominion were valid and tenable, even from an American point of view, no President would venture to bring them forward in a Message to Congress, without at the same time producing proof that he had discharged the full obligation of his office in respect both to the assertion of rights and the denunciation of wrongs. Now, as a matter of fact, General Grant cannot even pretend that he has proceeded in any attempt to remove the grievance with which he seeks to excite the passion of the country. Then again, it is notable that the language in which the President attacks the Canadian authorities is entirely vague, and carefully avoids the allegation of any specific and answerable plaint. The contentions of the *argumentum ad populum* are two: the course pursued by the Canadians towards the fishermen of the United States has "not been marked by friendly feeling," and "a like unfriendly disposition has been manifested by the Canadian maintenance of the claim of a right to exclude citizens of the United States from the St. Lawrence River."

When we come to enquire more closely into the imputation of "unfriendliness" it resolves itself into a charge that vessels have been seized without notice, "in violation of the custom previously prevailing." This is the key to the whole enigma. In 1855 a Treaty establishing Reciprocity of Trade, and especially devised "to regulate the commerce and navigation between Her Majesty's Possessions in North America and the United States, in such manner as to render trade reciprocally beneficial and satisfactory," came into operation. Conditionally upon this Convention the Legislatures of Canada, Nova Scotia, New Brunswick, and Prince Edward Island, passed Acts "suspending" the operation of certain protective laws, which reserved the undoubted right of fishing in their own rivers and seas to the subjects of Great Britain, together with other privileges of trade and traffic. This suspension was purely temporary and conditional on the Treaty. Again, as was reported by the Committee of Commerce, appointed by the House of Representatives to consider the Reciprocity Treaty in 1862, "Under the stipulation of the Treaty, Canada grants the use of her canals to American vessels on the same terms as those enjoyed by British vessels." As far as the British possessions were concerned, the provisions of the Treaty were carried out faithfully. It has never been alleged that they were not. But certain of the British possessions, with the view of benefiting their own trade, offered special inducements, in the shape of reductions of dues, over and above those enjoined by the Treaty, to merchants and carriers by particular routes. Instead of meeting this legitimate competition in the spirit of Free trade the Americans affected to feel aggrieved, and of their own motive, by resolution of the House of Representatives the Treaty was terminated at

the expiration of the probationary ten years in 1866. It follows that as the Acts passed by the Provinces to suspend their laws relating to the fisheries and navigation provided that these should come into effect again if the Treaty were ended, those laws did as a matter of fact revive, and, from the moment the Americans threw up the arrangement, were in full legal force. The Earl of Clarendon pointed this out very clearly in a despatch dated March 17, 1866.

The attempts thus made to receive the Treaty, to conclude a new one, or to extend the time for its expiration, in order to admit of negotiations, having failed, and the Treaty having now expired, it becomes the duty of her Majesty's Government to consider what course they should pursue. By the termination of the Treaty of 1854 two important and undoubted rights of this country, the enjoyment of which, through the operation of the Treaty, was temporarily ceded to the citizens of the United States revert absolutely to the British Crown. These rights are—first, the exclusive right of fishing by its subjects on the sea coast and shores, and in the bays, harbours and creeks, of the British possessions of North America, except in so much as certain restricted privileges may have been conceded by the convention of 1818 to American citizens; and, secondly, the exclusive right of navigation by its subjects of the river St. Lawrence and the canals communicating between the great lakes and the canals of Canada.

As a matter of fact the British Government did not, as it had a perfect right to do, at once re-establish the old restrictions. The policy adopted was more generous, in the hope that America might yet see the folly of her desertion of free trade. A certain amount of license was allowed with respect to the navigation of the St. Lawrence river; and as regards the fisheries only so much of the old Acts were enforced as was required by 59 George III., cap. 38, and due to the Legislatures of New Brunswick and Nova Scotia. "By those Acts, which were only suspended during the operation of the Treaty, severe penalties extending to confiscation of their vessels, with the cargoes, tackle, stores, &c. are inflicted upon all persons, not British subjects, who shall be found fishing, or to have been fishing, or preparing to fish, within the distance of three miles of the coast of her Majesty's possessions in North America." These provisions of course came again into force. The case is perfectly clear, and the President has not a single argument of legal value in his favor when contending against the exercise of their international rights by the people of the British provinces. The "unfriendliness" of which the President complains is a simple unwillingness on the part of the people of the Dominion to continue to those of the United States certain privileges which were ceded for a time only, and distinctly subject to the reciprocal provisions of a Treaty which the latter elected to set aside. The "custom previously prevailing" was the beneficial consequence of the Reciprocity Treaty, and of course now that the old order of affairs comes to be re-established that custom no longer prevails. The question involved is in no sense political—it is simply and essentially commercial—and it is an act of unscrupulous partisanship to endeavour to inflame the minds of the people of the States against Great Britain or the Dominion by a complaint so untenable in itself, and at the same time so entirely misrepresented. If the President of United States has anything to allege in the shape of an illegal administration of the

laws which have been revived, this is a charge which should take the shape of an official remonstrance addressed to the authorities of Canada. So intelligent a nation as that of the States cannot fail to perceive this; and when General Grant appeals to Congress with a crude story that some "irresponsible agent" has done something against the law to the injury of American citizens, we shall be greatly surprised if Congress does not demand to know what steps the President has, taken to obtain redress, and if he fails to show that he has done his duty as the chief executive officer of the States, not only repudiate his plaint, but vote him incompetent.

There is, however, another way of looking at the question raised by the President, which is, if possible, more important. General Grant insists most piteously that the river St. Lawrence is "a natural outlet of the commerce of the United States." Now it so happens that the Committee of Commerce in 1862 dealt with this very topic, and looking at it from the Reciprocity point of view arrived at a different conclusion. Under the heading "Value of the St. Lawrence hitherto," the Committee says that while the free navigation of that river was at first hailed as a great boon to the States, "Hope seldom told a more flattering tale than on this subject."

Sixteen hundred vessels, with an aggregate burden of 400,000 tons, were so long ago as 1856 employed on our northern "inland seas," but from the date of the Treaty to 1860, a period of nearly six years, only 400 American vessels, with a burden of no more than 12,550 tons, passed seaward through the St. Lawrence, and less than one-half of them ever returned.

So that, even when the St. Lawrence was free to the States, this "natural outlet" did not prove of any great value. On the contrary, referring to the tables embodied in the report of the same committee, we find that while in 1854—the year before the river was opened to the vessels of the United States by the Treaty—the exports by way of the river amounted to \$14,709,621; by 1860 they had sunk to \$8,400,096, and the "goods *in transitu* for the United States" diminished in value from \$495,326 in 1854 to \$21,505 in 1860. It would seem to follow that the United States benefited less by the river when it was free than when it was closed—at least so contended the Committee of American representatives. Nevertheless, it is in the face of these figures, or rather in convenient forgetfulness of purpose with which they were employed on a former occasion, that General Grant now complains that the St. Lawrence is no longer *absolutely free*—for free it is within all reasonable limits.

We are further driven to the conclusion that the President of the United States is ignorant of the economic history of his country by the measure which he proposes of reprisal for the grievance with which he has endeavoured to stir up the animus of his people. "I recommend," says General Grant, "Congress to confer on the Executive power to suspend by proclamation the law now in force authorizing the transit of goods in bond across the territory of the United States to Canada; and further, should such an extreme measure become necessary, to suspend the operation of any laws whereby Canadian vessels are permitted to enter the waters of the United States." The idea has not even the merit of originality. The Committee of Commerce spoke of it as follows in 1862:—"By far the most excessive portion of the British possessions is behind the territory of the United States, and under an *unwise and illiberal system*