

General Business.

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Miramichi Advance.

CHATHAM, N. B., JANUARY 8, 1903.

New Brunswick's Fishery Claims.

The desirability of securing to the people of New Brunswick whatever they are entitled to in the way of revenue—whether it be large or small in amount—will not be questioned by any good citizen in any part of the Province.

There is, therefore, general approval, no doubt, of the effort being made by the Local Government, through Premier Tweedie and Attorney General Pugsley, to have New Brunswick's share of what is known as the Halifax Fisheries Award under the Washington Treaty paid over by the Dominion Government to the Province, instead of being retained in the federal treasury.

The claim of New Brunswick is for about \$2,000,000, and the grounds on which it is based are so strong that it must be allowed.

As in the case of the Eastern Extension claim, however, our own newspapers of a certain class make little of this very important one because the politicians they are supporting seem to think it were better that we should not have justice done to us in the matter lest the government of the day receive the credit of having secured it.

After all the efforts made by the opponents of the present Local Government at Ottawa against the payment of the Eastern Extension claim it will be remembered that it was realized by the Tweedie administration. Notwithstanding the position taken by the oppositionists in regard to this \$2,000,000 claim of New Brunswick, that too will, assuredly, be realized.

Incidentally, it may not be amiss to refer to another provincial claim of recent origin, which was soon forced to settlement. It was a small one, but it illustrates the advantage of having at the head of provincial affairs a man who is alert in such matters. It will be remembered that, within a year, collector of Customs Lookhart, of St. John, received, anonymously, a one thousand dollar note, which the sender stated in his letter of transmission belonged to the province of New Brunswick. Mr. Lookhart sent it to the Customs Department, Ottawa. Premier Tweedie, however, claimed it for New Brunswick. As usual, the opposition papers sneered at such a demand being made. Mr. Hazen would never have thought of such a thing. He, no doubt, assumed that it was even more preposterous than he once seemed to think the Eastern Extension claim was. The Minister of Customs, thus encouraged, made light of the matter, but when our Premier took steps to institute legal proceedings to have our right to the money determined, the thousand dollars was remitted from Ottawa to him, as Receiver General, and, the other day, it was placed to the credit of New Brunswick. We have not observed that the Sun, Globe, or any other of the opposition organs have made any reference to this later phase of the little matter.

It will be found, and that in a short time, that the important Fisheries Award claim of New Brunswick, which was one of the subjects discussed at the recent Quebec conference of maritime premiers, and is on the same footing as the similar claim of Nova Scotia and Prince Edward Island, will be allowed and paid over, for the whole matter is, by agreement with the Dominion Government, made the subject of a case to be submitted to the Supreme Court of Canada. Meantime, in order that our readers may be the better informed of its scope, we publish, in other columns, a considerable portion of Attorney General Pugsley's presentation of it, the limitations of our space necessitating omission of many cases cited and the holding over of its conclusion until next week's paper.

The "Transcript" Nominates a New Premier.

Any friend of Mr. Speaker Robinson of the present House of Assembly would not think, for a moment, that his "home organ," the Transcript—to use an oft-repeated term of that paper and its conferees, the Sun and Globe—represented his views when it proposed, last week, that he should be Premier of New Brunswick in the place of the gentleman who now so efficiently occupies that position. The ADVANCE is more amused than otherwise over the association of ideas on the subject of Premier Tweedie's "organ"—which, according to the oft-repeated declarations of the papers named—is this humble Chatham paper. The ADVANCE, therefore, does not retaliate in kind.

In the case of the Transcript's nomination of Mr. Robinson for the premiership, we would be sorry to charge that gentleman with inspiring his "home organ" to make it. We prefer to think that Mr. Robinson—like Premier Tweedie—has a proper regard for his position and would hardly like to be held responsible for the utterances of any newspaper, when it might assume to own and speak for him as the Transcript has always done and continues to do, or to repudiate and undermine his leader as that paper suggests he should do. Imagine Messrs. Robinson and Tweedie being posed before the Province as rivals for the premiership by the editor of the Transcript on one hand and the editor of the ADVANCE on the other! We can picture to ourselves our dropping off at the toboggan slide and minding our own business, in the full confidence that Mr. Speaker Robinson would also retire from the train and let

the "long-haired incubus" ride on his pass as long as it held out. Meantime, we are sure that Premier Tweedie would be somewhere else in utter unconsciousness of any effort on the part of the Moncton Absolutist to lead a rebellion against his authority.

The St. Lawrence Route.

Commander Spin, who conducted an enquiry into the eleven shipping disasters on the St. Lawrence route during the past season, has reported to the marine department. The evidence has been forwarded to the British board of trade to take action thereon with regard to the certificates of those concerned. The commissioner says of the mishaps to the ten following vessels: The Monteville, Manchester Importer, Manchester Engineer, Sabara, Iberian, Leonaigo, Restington, Indians, Bangor Head and Scilian, that these were not caused by any deficiencies or inefficiencies in the aids to navigation either on the ships themselves or on the route. They were caused by the inexperience or carelessness of some one or more of the captains, officers or pilots. The commissioner recommends that owners employ only careful experienced officers and that the pilotage system on the St. Lawrence be brought under government control.

Dredging Urgently Needed.

The ADVANCE referred, some three months ago to the necessity of dredging in certain parts of the Northwest Miramichi below Redbank, but we are not aware of any step being taken to induce the Public Works Department to look after the matter. Our attention is now called to the need of similar work that must be done on the Southwest Miramichi to enable the tow boats which are engaged in the large operations of the Southwest boom to safely pass up and down that river. Owing to the want of the channel being straightened at certain points, it has been gradually filling up, the obstructions having much increased by reason of the material shifted by the great ice shove of last Spring. If the channel had been straight it is probable that it would have been deepened by the scouring of the shovels down the current by the big tide and freshet had the effect of practically raking lots of sand and silt into certain turns of the channel, so that the larger steam tugs now operating in connection with the boom can pass up and down only at or near high tide.

These conditions are a great drawback to the business of the whole community. They affect the towns as well as the country districts and all who are in any way concerned in the chief industry of the Miramichi—lumbering. It is, therefore, to be hoped that steps will be taken to bring the matter before the government at Ottawa in a practical way, so that a sum to cover the cost of necessary dredging may be placed in the estimates to be submitted to parliament.

It is said that the Works Department has not an available plan suitable for doing this dredging. That need not, however, prevent it from being done, for we understand that a dredging plant of just the capacity required is to be had and it is probable that its services will be available at less cost than the government could send one of their own here and do the work with it for. At all events, we must have the dredging done.

Dominion and Provincial Politics.

The ADVANCE presented facts and arguments last week to show that no decision had been arrived at up to that time by the provincial, or local government party to depart from the officially declared policy of its leaders—the successive premiers in office—including Hon. Mr. Blair and those since his resignation—that federal party lines were not to be recognized in local elections or provincial management. Our object was merely to demonstrate an existing fact, and we expressed no opinion as to whether the policy referred to should or should not be changed. Yet, the Moncton Transcript, referring to the subject says: "The insistence of the ADVANCE that there will be no such division in provincial politics is creating the impression that there is a difference between Premier Tweedie and Attorney General Pugsley on the subject. But when Premier Tweedie makes up his mind to accept the wish of the overwhelming majority of his supporters, to divide provincial politics on federal lines, we do the loyalty of the ADVANCE the justice of expressing the belief that it will not hesitate one minute in adopting its editorial convictions to a new and reversed form of expression."

Why does the Transcript, which, we observe, has put Mr. Speaker Robinson in nomination for the premiership, think it necessary to misrepresent what the ADVANCE says. It knows quite well that this paper is not so conceitedly managed as to imagine that it can make and unmake parties and premiers and policies. Instead of insisting that there would be no division on federal lines in provincial politics, we said: "It is open, of course, to representatives of either of the Federal parties to nominate Assembly candidates in any constituency. The local opposition has practically done this in several places, and the Government's friends will, perhaps, affiliate in such localities with the Liberal organizations for a similar purpose. That, however, will be only a logical sequence arising out of local conditions, and while it will give additional and incidental zest to the contests in which such conditions exist, it will not affect the principle of coalition in the local. Provincial party at large, unless the leaders will adopt the principle so strenuously advocated by some of the papers. This they have not yet done."

It is little wonder that the persistence of the Transcript in misrepresenting those who do not see through its spectacles, has lost to it the influence it once had.

As to the "adopting" of the editorial convictions of the ADVANCE in the matter referred to (we presume adopting is meant) there would be a precedent for it in the Transcript's course in 1899, when, after it had supported the policy enunciated by the Moncton Convention, it abandoned it as soon as Premier Emerson condemned it.

A paper which supports a party must, necessarily, follow its officially declared policy, or oppose the party. The matter of recognizing federal party lines by the provincial government party cannot be decided, save by the latter. That is a principle of which the Transcript may not be aware. The determination of the question cannot be brought about by an alleged declaration of a member of the local government telegraphed from Ottawa by an unknown press correspondent, whose identity has been further disclosed than by a statement of the editor

of the Sun that he is a reliable person, known to him.

As we said last week: "The way to bring about the recognition of Federal party lines by the provincial parties is through their recognized leaders."

Should such recognition be adopted as the policy of the party, the public, including the Transcript, will find the ADVANCE quite ready to take its stand in one column while working out a policy for undermining it in another.

Some of the Real Questions for New Brunswick.

After referring to the little attacks of the St. John Sun on Premier Tweedie, the St. John Gazette says:—

The real question which the electors of New Brunswick will be called upon to decide is, Mr. Tweedie's fitness to be the leader of the government, and this can only be ascertained by an examination of his career since he became premier. No one can deny successfully that Mr. Tweedie, during the two years and a half that he has been premier has conducted the government of the country admirably. The business of the province was never better done than it has been under his management, for Mr. Tweedie is a real leader and a thorough business man who gives his personal attention to every feature of the administration of public affairs. The record of Mr. Tweedie's government has been from the first one of intelligent progress in all lines, and more especially with respect to the development of agriculture and the mining industry. Add to that the fact that he has been able to secure the payment to the province of the Eastern Extension claim, which was so long denied by a conservative government, and that he is now in a fair way of obtaining for the province its share of the Halifax Award, and certainly the premier's claims to the continued support of the people become irresistible. There is an old proverb which President Lincoln used to use, that it is not safe to swap horses when crossing a stream, and the people of this province will not be so ill-advised as to exchange Mr. Tweedie for Mr. Hazen at a time when so delicate and important a matter as the Halifax Award claims is being pressed for adjustment. It is well known to all the electors of New Brunswick that both Mr. Hazen and the Sun are opposed to these claims. They do not want New Brunswick to get this two million dollars, and both Mr. Hazen and the Sun, in their ignorance of the real nature of the Halifax Award, set up as a defence for the Dominion government against our claims that the federal government has been paying bounties to the fishermen of the maritime provinces. Now these bounties are given for deep sea fishing, whereas the Halifax Award was for the shore fisheries. The deep sea fishing is open to the whole world, but our shore fisheries are our own, and the Halifax Award was given as a compensation for allowing the Americans to enjoy these shore fisheries in common with us for a period of twelve years. A man so ignorant of the whole Halifax Award business, and so hostile to the just claims of New Brunswick, would indeed be a singular person for the electors of this province to place in control of the government.

New Brunswick's \$2,000,000 Fishery Award Claim.

Following are some of the main features of Attorney-General Pugsley's argument submitted to the Dominion government in the matter of the Fishery Award in which there is widespread interest and by which, if the contention of the province is sustained, New Brunswick will receive in all about \$2,000,000.—

It is proposed to deal generally and fully with the question of the right of the province to be paid its proportion of the Halifax award, and other questions, viz., as to the proprietary rights of the province in the inshore fisheries, being necessarily involved in it.

By article 18 of the treaty of 1871 between Great Britain and the United States (the treaty of Washington) it was agreed that, in addition to the fisheries secured to the United States under the treaty of 1818 of taking, curing and drying fish in certain coasts of the British North American colonies, the United States should have in common with British subjects, for the term of years mentioned in article 33 of the treaty, the right to take fish of every kind, except shell fish, on the sea-coast, on the shores and in the bays, harbors and creeks of the provinces of Quebec, Nova Scotia, New Brunswick and Prince Edward Island, and of adjacent islands, without being restricted to any distance from the shore, with permission to land upon the said coasts and shores and islands, and also upon the Magdalen Islands, for the purpose of drying nets and curing fish, but not to interfere with private property or with British fishermen in the peaceable occupancy of any part of the said coast in their occupancy for the said purpose.

Article 19 of the treaty gave similar privileges to British fishermen on the eastern sea coast and shores of the United States, north of the 39th parallel of North latitude and on shores of adjacent islands, and in the bays and creeks of the said coasts and shores and islands, without being restricted to any distance from the shore.

Article 22 provided that, inasmuch as Great Britain claimed that the United States would gain greater benefits under this treaty than would accrue to Great Britain, a commission should be appointed to determine the amount of any compensation which in the opinion of the commission ought to be paid by the government of the United States to the government of the United States in return for the greater privileges which it was alleged would be enjoyed by the United States and which amount was to be paid the British government.

Article 32 provided that the articles 18 to 25, inclusive of the treaty should extend to Newfoundland as far as applicable.

Under the foregoing provisions commissioners were appointed and entered upon the discharge of the duties imposed upon them.

The commissioners, by their award dated the 23rd of November, 1877, awarded the sum of \$5,500,000, to be paid by the government of the United States to the government of Great Britain. The amount of the award having been paid by the United States, the British government

paid to the government of Newfoundland \$1,000,000 thereof, and the balance of \$4,500,000 to the government of Canada. In the British case laid before the commission, it was claimed that in respect to Quebec, New Brunswick, Nova Scotia and Prince Edward Island there should be paid twelve million dollars, and that Newfoundland should receive two million eight hundred and eighty thousand dollars.

New Brunswick now seeks to have its due proportion of said award paid to its government.

By the common consent of nations, subject to the right of navigation, the sea and the land under it, form a marine area beyond low water mark adjoining the coast of each country, is the property of such country. The authorities sustaining the doctrine are so numerous that this (three miles) question may be said to be entirely settled.

Apart altogether from the authorities, which will be referred to hereafter, it would seem that the English and American governments have estopped themselves by express words used in the different treaties made between them upon the subject of the inshore fisheries of the United States and the provinces of Canada from setting up that such fisheries are not the exclusive property of the nation owning the adjoining shores. The matter was fully discussed during the negotiations of the treaty of Paris, 1783, when Great Britain expressly denied the right of the United States fishermen to fish in British waters (that is the right to fish within three miles of the coast, because the right to fish on the Grand Banks of Newfoundland and in the open sea was admitted) or to land for the purpose of drying their nets or curing their fish.

By the treaty of 1854, commonly called the Reciprocity Treaty, British waters on the coast of North America were thrown open to United States' citizens, and the United States' waters north of the 39th degree of north latitude were thrown open to British fishermen, excepting always the salmon and shad fisheries (which were exclusively reserved to the subjects of each country), and certain rivers and mouths of rivers to be determined by a commission to be appointed for that purpose. Certain articles of produce of the British colonies and of the United States were admitted to each country respectively free of duty. The treaty was to remain in force for ten years, and, further, for twelve months after either party should have given notice to the other of its wish to terminate the same. And finally by the treaty of Washington, 1871, the same exclusive rights were recognized by both governments and were set off one against the other, as will appear from a perusal of the fishery articles in that treaty.

It would seem clear, therefore, that the British crown has always asserted and maintained a complete and exclusive jurisdiction over the inshore fisheries of the different provinces. Whatever, then, may be the rules of international law as to other matters, or as between Great Britain and other nations, this much is certain that the governments of Great Britain and the United States have both formally and more than once acknowledged that each country has an exclusive control over, and property in, its respective inshore fisheries, and each, of course, when admitting such exclusive control and property in the other, claimed the same for itself.

For the purpose of this argument formal admissions would, it is contended, be sufficient; but the authorities, far from conflicting with the rights there expressly conferred by each of these nations upon the other, entirely bear out the doctrine that every nation for a distance of at least three miles from its coast has an exclusive control over the sea below low water mark, and indeed an exclusive property in the land under the same, and such control and property are subject only to a right of peaceful navigation for the ships of all nations. These authorities are very numerous and it would be proper to cite a few which seem to enunciate the doctrine in its plainest terms.

[Here Attorney-General Pugsley voluminously cites authorities and makes comments as to their bearings.]

Proceeding, he says:—

It may be affirmed without any possibility of successful contradiction that the United States did not put forward any argument or proposition that involved a doubt, but that the United States conceded that the fisheries within the three mile limit belonged to Great Britain, and that the only right which the United States had to the same was by the treaty of 1871, and they further conceded thereby that the treaty of 1818 excluded them for any right of fishing within the three mile limit of the British territories.

The Halifax commission proceeded to and did allow in respect to the Provinces of New Brunswick and Prince Edward Island compensation for the inshore fisheries that is to say, the fisheries within the three mile limit and the right to land, dry nets and cure fish.

Reference also may well be further made to some of the matters which came before the Halifax Commission and which gave to sustain the position of the province. At page 1539 of the proceedings before the commission, it appears that the commissioners were asked by the counsel for the United States to limit their inquiry to the amounts to be paid by the United States for fishing within the three mile limit and for landing upon the provincial coasts and shores and islands for the purpose of drying nets and curing their fish, and to exclude any compensation with regard to the purchasing of bait, ice, supplies, etc., and for being allowed to tranship cargoes in British waters. This was agreed to by the commissioners, so that the award went upon the use by the United States of the fisheries within the three mile limit of the province, the landing upon the provincial coasts and shores and islands for the purpose of drying nets and curing their fish upon such shores. And in that connection Mr. Foster said: "The concessions made to the citizens of the United States is the right to fish inshore without being excluded three miles from the shore as they were excluded by the remuneration contained in the treaty of 1818. It gives the further right to land on the coast and shores and islands for the purpose of drying nets and curing fish." This statement of Mr. Foster, who was the agent for the United States, makes it absolutely clear, when one considers the decision of the commission above referred to, that the award covered the fisheries within the three mile limit and the right of landing, drying nets and curing fish.

The matter is again discussed on pages 1540 and 1541. Mr. Foster further remarks: "Now the commissioners will be pleased to observe and our friends on the other side to take notice that the United States utterly repudiates any obligation either to make compensation or pay damages for any of

these matters; that they maintain as they have from the first that the question submitted here is solely and exclusively the adjustment of equivalents relating to the inshore fisheries."

Mr. Foster is here referring to the desire of the United States to exclude the commercial portion of the British claim, but it was conceded that if the arbitrators found that under the treaty of 1871 the United States got more benefit from the British inshore fisheries than did the British from the American inshore fisheries, an award should be made in favor of Great Britain.

The decision of the commission to exclude the commercial claim was delivered by the president and will be found at page 1585 of the proceedings.

Mr. Galt, while acquiescing in the decision, intimates that he thinks the two governments in making the treaty of 1871 had no idea of so limiting the enquiry, but from the time forth it will be seen that the enquiry was limited to the fishing within the three mile limit and to the landing and drying nets and curing fish on the coasts.

It is important that this fact should not be obscured or omitted from consideration, because it shows that no one principle entered into the award at all upon which it could be contended that it was made for anything but what was the property of the respective provinces and it is clear that the award was exclusively for these proprietary rights, all of which were vested in the provinces.

A further important fact to be noted is that when framing the Treaty of Washington, the British commissioners explained that the fisheries within the limits of maritime jurisdiction were the property of several British colonies, and that it would be necessary to refer any arrangement which might affect colonial property or rights to the colonial or provincial parliaments: See p. 240.

As further showing the admitted interest of the maritime provinces in the question involved before the commission in regard to the fisheries, it may be noted that it was recognized by the commissioners that each province was entitled to be represented by counsel, p. 12.

It having been shown that the whole amount awarded by the commissioners to the Canadian provinces was in return for the right given to the Americans to participate in the inshore fisheries of the province of Quebec, Prince Edward Island, Nova Scotia and New Brunswick and for the rights of landing upon the unoccupied part of the shores of such provinces in order to dry their nets and cure their fish, the question necessary to be decided is whether or not such sum awarded does not belong to the separate provinces rather than to the Dominion at large. If the award had been divided into two parts and one portion given exclusively in return for the right of participating in the inshore fisheries and the other in return for the privilege of making use of the unoccupied part of the shores of the different provinces named, even at the time of making the award, it would hardly have been disputed that this latter sum would have been the property of the individual provinces. If, therefore, it can be demonstrated that the provinces are entitled individually to such amount as may have been given on account of the inshore fisheries the other would follow in the same direction as a matter of course.

[The ADVANCE will publish the concluding part of the Attorney-General's presentation on this subject next week.]

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About Public Printing.

The St. John Sun and other papers in opposition are constantly harping on the fact that the proprietors of papers on their offices and are, therefore, subsidized, etc. This is a small-minded way of endeavoring to break down the effectiveness of the defence which the government papers make to opposition attacks. It proves that the opposition organs have no case. Besides, it is very inconsistent for a paper of the Sun's position and record to resort to that kind of warfare. The Frederick Gleazer says:—

"No paper published in Canada has ever profited as much from Government printing as the Sun. For the eighteen years that the Conservative Government was in power the Sun received, for public printing, on an average, from \$10,000 to \$12,000 a year, or about \$200,000 altogether from that source. It certainly shows an enormous amount of subsidy on the part of the Sun that it should say anything in regard to other newspapers doing public printing, when its own account shows an enormous amount to be found on the books of the Auditor General of Canada."

To put the case in another form it may be said generally, that from the year 1878 until 1896 the Sun received on an average \$200 a week for printing for the Dominion Government. And yet after all this the Sun complains in regard to that matter as if public printing is being done by papers which support the Provincial Government."

The public may judge from this of the sincerity and honesty of the Sun's criticisms of the Provincial Government."

Everybody knows that public printing is necessary and that it must be done by some body. The government, naturally has it done at the offices of those who are friendly to it. There is not a large printing office in the country that has not had more or less of such work at some time. The Sun's idea seems to be that when those whom it opposes are in power they should have the public printing done either in its office, or sent out of the country.

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3 15 9 30 ... Chatham... 8 25 10 30

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