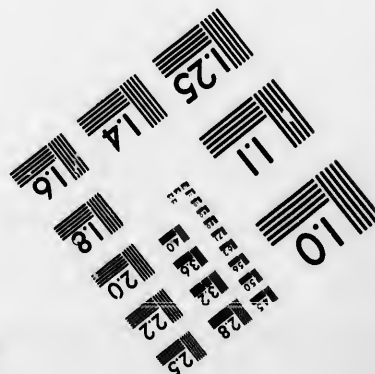
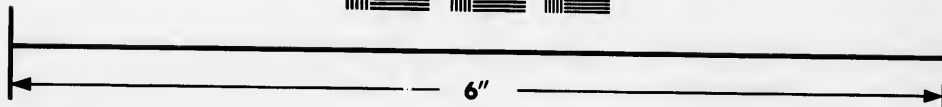
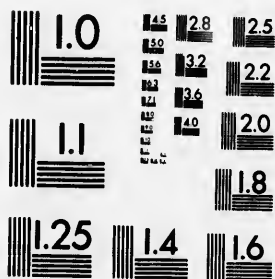


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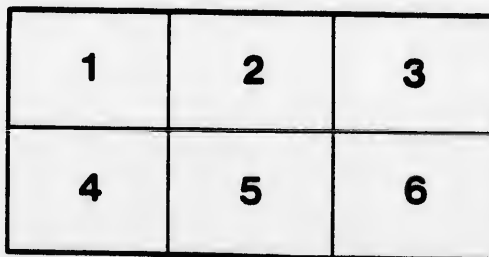
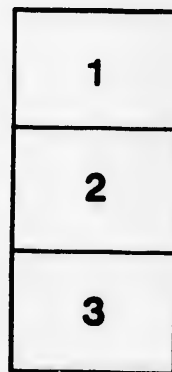
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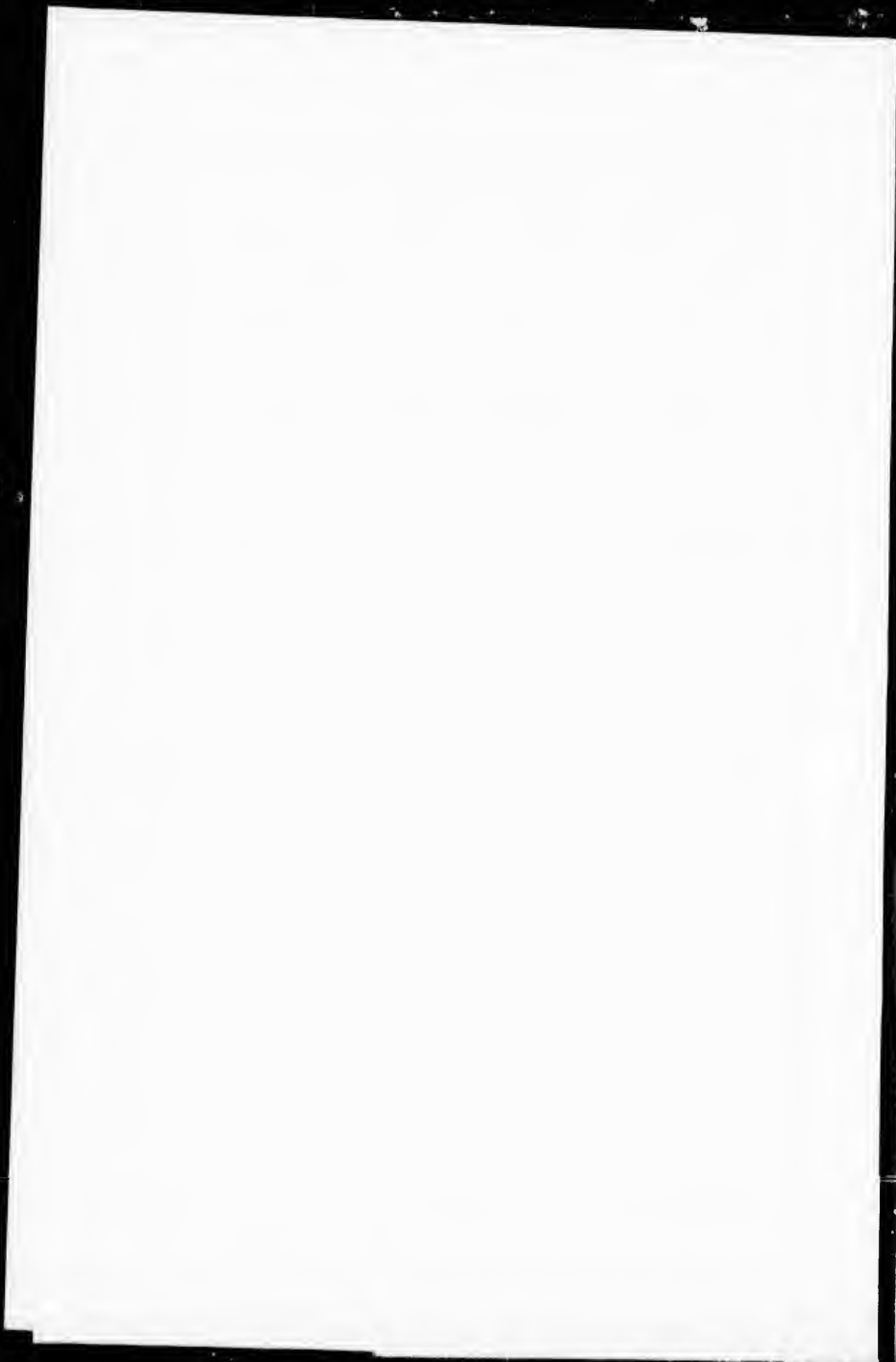
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A REVIEW
OF THE
DOCUMENTS
IN RELATION TO THE
FISHERY QUESTION,

**SHOWING THE TRUE SOURCE OF THE CONCESSIONS
TO THE FRENCH CONTAINED IN THE CONVENTION
OF 14TH JANUARY, 1857.**

Printed at the Newfoundland Office.

1857.

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WHO ARE THE ORIGINATORS OF THE FRENCH CONVENTION ?

"The Despatches of Governòr HAMILTON and Mr. CROWDY on the subject of further Concessions to the French were such as should be recorded in letters of gold, but the Despatch of Governòr DARLING was traitorous to the Country, and if he, (Mr. March) had him upon the wharf, he would think little of tumbling him into the sea."

"As for what he had said about the Governor, he would say it again, because he deserved it; if he was his, (Mr. March's) father and guilty of writing the Despatch to which he had referred, he would maintain that he ought to be hurled over the wharf."

(Speeches, in the House of Assembly of Newfoundland, of Mr. March, a member of the so-called loyal Conservative Party, on the 23rd February, 1857.)

"I am as much grieved as astonished to find by these Documents (Governor Darling's Despatches of 23rd and 28th July, 1856) that His Excellency should have deemed it necessary to exercise his talents in making out a case for our Rivals, the French, to the great prejudice of British subjects, struggling to sustain themselves against French competition."

(Mr. Charles Fox Bennett's (formerly a Member of the Executive and Legislative Councils) letter published in the Public Ledger of the 27th February, and 3rd March, 1857.)

Before our "Happy Family" of Delegates is absolutely engaged in the "Circassian"—while the Band of the "Royal Newfoundland Companies" are doubtless practising the "Rogue's March," as most appropriate for the exit "over the wharf" of our TRAITOR GOVERNOR—while the Ministerial "Conspirators," the opposition "Detective," and the experienced "professional gentleman," who is appointed to "watch the proceedings," (having first, according to honest Iago's advice, each "put money in his purse,") are like greyhounds in the slip "straining for the start;" it may not be

unacceptable to that portion of the "Public," whose genuine sentiment, whenever, at least, that Public is a British one, is most faithfully expressed by the time-honored adage, "*Fiat Justitia ruat Cælum*,"—to take advantage of the comparative calm—the lull which has succeeded the political storm—for the purpose of enquiring whether such imputations as the foregoing oratorical and epistolary *morceaux* convey, are really justified by facts and circumstances. Such an enquiry cannot fail to blow away a little of the dust which has been so sedulously thrown into the eyes of the said public: and it will expose the "dodge," by which a small but disappointed, and certainly unscrupulous party, have endeavoured to bring down upon others that public censure which ought in simple justice to fall upon themselves alone. To the weak compliance and selfish yielding before Imperial solicitation, of those with whom the party referred to are avowedly connected, may be clearly traced some of the most injurious provisions of the recent Convention.

In their attacks upon GOVERNOR DARLING and his advisers, at times within, and at other times without, the halls of the House of Assembly—by direct allegation or covert insinuation, as best suited the dirty purpose of the moment,—they have not hesitated to ascribe to the former, dissimulation, corruption, and falsehood, and to the latter, a guilty complicity in that course of public immorality.

But it will be seen from the following brief review, how easily the "Convention" saddle may be put upon the right backs; and this being done, Governor Darling will indeed be well warranted in exclaiming "let the *galled* jades wince, my withers are unwrung."

The Papers connected with the Convention, laid before the Legislature and printed, are accessible to a small portion only of the reading public. They commenced with the year 1844 and carry the history of the negotiations down to the present

moment; these negotiations were initiated in the city of St. John's by Mr. WILLIAM THOMAS, then a Member of the Executive Council and Chairman of the Chamber of Commerce, under the instructions of Governor Sir John Harvey; to confer with Captain LeFavre of the French Corvette *La Fortune*, "on the subject of an arrangement for the common interests of the French and English fishermen on the coasts of Newfoundland and Labrador,"—they were resumed in Paris in 1852, upon the basis of the position in which they were left by Mr. Thomas; and were continued in 1853 in London, when Mr. Archibald, our late Attorney General, specially represented the interests of the colony. In both years, 1852 and 1853, the proceedings were referred out to the Colonial Government for Report; and in the latter year for suggestions of "such well balanced mutual *concessions* as may be made without serious detriment to the interests of either party."

For the present they have terminated with the signing of the Convention, or as may, it is hoped, be more truly affirmed, with the rejection of that Convention by our local Legislature.

For GOVERNOR DARLING's opinion no reference was ever made by the Imperial Government; and it was only, as he states in his Despatch, in consequence of his conceiving that the negotiations of 1853, which had been interrupted by the war with Russia, would be renewed upon the establishment of peace, that he was led, after fully considering the question and perusing the recommendations of his Predecessors and their Advisers, which all, more or less, pointed to *concessions of some kind*, to address the Imperial Government, and urge his strong opinion against any further arrangement whatever being entered into with the French, except in respect to the *purchase* of bait, an advantage, which local circumstances fostering the present lucrative, though strictly illicit traffic, as well as the Reciprocity Treaty with the United States, seemed to him to have already indirectly secured to them.

The most important concessions contained in the Convention will now be stated seriatim; and the extent to which they appear to originate with, or may be in any degree ascribed to the Authorities alluded to, will be noticed each against the other, with a reference to the page of the printed papers at which the views of those authorities are recorded, namely:—

Concessions Proposed by the Convention.

I. Exclusive right of Fishing given to the French from Cape John to Cape Norman, to extend to three marine miles from the coast and the coasts of the adjacent Islands, with right of strand from Cape John to Rock Point, varying from a third of, to half a mile, and power to remove enclosures, erections, and obstructions on the shore—and British vessels and Fishermen from the waters by French authority alone, and to cut wood as far as required for the repair of Fishery erections and fishing vessels.

I. In 1844, Mr. WM. THOMAS in his negotiation with Captain LaFabvre, proposed “ to confine “ the respective fishermen within “ certain defined limits and for “ this purpose he submitted to Mr. “ LaFabvre as the French limits, “ a line of coast extending from “ Bonne Bay to Cape St. John, on “ which coast only the French “ should have the exclusive right “ of fishing, the French *ceding* to “ Great Britain the *exclusive right* “ of fishing from Bonne Bay to “ Cape Ray.” (House of Assembly Convention Papers, Page 4.)

In 1853, Mr. Attorney General Archibald, to whom special leave was granted by the Governor and Council to remain in England to represent the interests of Newfoundland in the negotiations respecting the Fisheries then proceeding, consented to give the French an *exclusive right* of Fishery from Cape John to Bonne Bay, (viz., Cape Verte,) Great Britain to retain the exclusive right between Cape Vert and Cape Ray; being in fact the arrangement proposed by Mr. Thomas, that a certain number of marine miles should be fixed with-

in which British subjects should not fish, that a quarter or half a mile in width of strand should be secured to the French, that they should be at liberty to cut wood upon unoccupied land, where not inconvenient to the British Government ; and that British buildings, enclosures, and vessels may be removed under certain limitations by French authority alone. (House of Assembly Papers, pages 32 and 33.)

In 1853 Governor Hamilton reported that His Executive Council, which then consisted, besides Mr. Archibald and Mr. William Thomas, of Mr. W. B. Row, Mr. Charles F. Bennett, Mr. Lawrence O'Brien, Mr. Thomas B. Job, and Mr. James J. Griève, were "opposed to even a mutual exchange of rights, or any modification of the Treaties by which British subjects shall absolutely renounce" their right of fishery on any part of the coast. But that "if the Imperial policy requires that such an exchange should be proposed, the Council thinks it should be confined to our yielding all right of fishery on that part of the coast between Cape John on the east, and the 50th degree of latitude on the West Coast ; the French renouncing " their right of fishery from thence to Cape Ray." This is again Mr. Thomas's original proposal, except that it gives 20 miles less of the West coast to the French. These 20 miles do

not include any French fishery port but they do include St. Paul's Bay. The object for this trifling alteration does not appear; but it is not a little remarkable that the recommendation is repeated in Mr. C. F. Bennett's published letter of 23rd February.

Mr. Hamilton then suggests that the British should be excluded within 3 marine miles, that a certain width of strand should be assigned to the French, and does not think the right of the French to expel intruders would be attended with evil consequences in practice, although it is unnecessary to concede it—and observes that as a mode of compromise the arrangement above suggested by Mr. Hamilton's Executive Council will leave the French in the absolute possession [in other words, with the "*exclusive right*"] for the purpose of the fishery, of the greater part of the coast between Cape John and Cape Ray, and of almost the whole of it upon which the Cod Fishery is of value [House of Assembly papers, page 40.]

2. Right to fish on the coast of North Belle Isle.

Mr. Thomas, in 1844, suggests that this right might be given to the French in addition to the "*exclusive right*" from Cape John to Bonne Bay, perhaps, he says, "adding to that the exclusive right of fishing on the Island of Belle Isle, together with the great advantages which must accrue to the French from the

"English being permitted to export to St. Pierre such Caplin as they may have to dispose of beyond what may be sufficient to bait our own boats."—(House of Assembly papers, page 5.)

Mr. Crowdy in his Despatch of the 23rd September, 1852, admits that the assertion "of the French that they had enjoyed a right to fish at Belle Isle up to 1841, without any demur on the part of Great Britain, may to some extent be true, as it is only since the very injurious effects on our trade of the French Bounty sustained Fishery have been severely experienced, that the importance of confining that fishery to its own proper limits has been so deeply felt." (House of Assembly Papers, Page 16.)

3. French right of fishery to extend up Rivers and Creeks as high as the Salt water, from Cape St. John to Rock Point, and from Rock Point to Cape Ray, for half a marine mile above the embouchure.

4. Islands of Groais and Belle Isle to be regarded as adjacent to the nearest coast, and French exclusive right of fishery therefore extended to them.

5. Right to purchase, and under certain circumstances to fish

This accords with Mr. Archibalds proposition, (House of Assembly Papers, Page 32); and Governor Hamilton suggests that it should be adopted, (House of Assembly Papers, Page 40.)

This surrender is proposed in Mr. Archibald's draft-project (together with other smaller Islands,) (House of Assembly Papers, Page 33;) and concurred in by Governor Hamilton, (House of Assembly Papers, Page 40.)

Mr. Thomas, as already stated, (No. 2) in 1844 proposed to con-

for Caplin and Herrings on the South Coast of Newfoundland.

for the right to purchase supplies of bait, (House of Assembly Papers, Page 3.)

Mr. Archibald considers that if the Reciprocity Treaty with the United States should extend to Newfoundland, "there could no longer be the same motive, nor indeed could it be equally practicable, to restrict the French supply of bait, if the Americans should be admitted to a participation in the fishery, and trade in fish without any exception as to bait." (House of Assembly Papers, Page 29.)

And Governor Hamilton suggests "that the sale of bait be made subject to Legislative Regulations for its protection and preservation." (House of Assembly Papers, Page 39.)

6. Right to fish on the Coast of Labrador.

Not proposed or consented to by any Newfoundland authority.

7. All stipulations of former Treaties to remain in force, as far as they are not superseded or modified by the "Convention."

Proposed by Mr. Archibald, (House of Assembly Papers, Page 50.)

It should be remembered also that Mr. ARCHIBALD'S propositions and suggestions were before GOVERNOR HAMILTON'S Council, and that, therefore, any such propositions not expressly dissented from by them in Mr. Hamilton's report, must be considered as having their approval.

Can an impartial enquirer, it may now be asked, come to any other conclusion than that in this catalogue of "propo-

sals," "suggestions," "compromises," and cessions of "*Exclusive Rights*," is to be found the "raw material," out of which the main stipulations of the Convention, with the exception of the Right of Fishery on the Labrador, have been manufactured; and that their origination with those who were appointed to represent the interests of Newfoundland accounts for the apparent confidence with which they have been submitted by Her Majesty's Government for the sanction of its Legislature.

Let the nature of GOVERNOR DARLING's recommendation for a settlement of the question, as contained in his Despatch (see Appendix, No. 1,) and the unequivocal character of the language in which that recommendation is conveyed, be examined on the other hand, and the truth, which it is the object of this review to elucidate, will be placed upon an irrefutable basis.

GOVERNOR DARLING states in his Despatch, not, he it observed, that he *admits* the French claim to an *exclusive right* of fishery within the limits assigned to them by Treaty, but that he cannot concur in the sweeping opinion expressed by GOVERNOR HAMILTON that that *claim* is "*without any foundation*," and says, that having reduced to writing his investigation of the question, he transmits a copy of the Paper with his Despatch. Amongst the Printed papers referred to by Mr. HAMILTON. (House of Assembly Papers, Page 35,) as accompanying the Duke of Newcastle's Despatch in 1863, and forming probably one of the Documents which GOVERNOR DARLING alludes to in the 16th paragraph of his Despatch, as having guided his opinions, is a letter from Mr. HYDE VILLIERS to the Secretary of State, written in the year 1830, to urge upon the Home Government on behalf of Newfoundland, that the proper moment for revising the principles up to that time observed with respect to the Treaties, had arrived. In that letter, Mr. VILLIERS gives a detailed account, apparently from original records of the History of the Negotiations in 1783,

and the ground upon which the French Right of Fishery was then placed.—This account is inserted (Appendix, No. 2,) and after perusing it, the only wonder will surely be, that any one who believes in its correctness, could doubt that the French use or right was *intended to be practically exclusive*, or in other words, that they should not be exposed to British competition upon any part of the shore assigned to them, which they were themselves prepared to occupy.

But it is not upon any view of the abstract right, that GOVERNOR DARLING bases his recommendations to Her Majesty's Government. Having referred to his opinions in the most cursory manner, he immediately proceeds to observe that the mere question of right does not appear to be of practical importance, since Her Majesty's Government had, upon the advice and opinion of the Crown Law Officers at home, already instructed the Colonial Government that Great Britain "is bound to permit the subjects of France to fish during the season in the district specified by the Treaty and Declaration of 1783, free from any interruption on the part of British subjects; but that if there be room in these Districts for the Fishermen of both Nations to fish without interfering with each other, this country is not bound to prevent her subjects from fishing there."

GOVERNOR DARLING then adds, (having just returned from a visit to the "French Shore,") that at the present time, as at the dates of the reports of some of his Predecessors, there is not room for the Fishermen of both Nations to fish within the French limits; that is to say, in the principal or only harbors occupied by the French for the prosecution of the Cod Fishery, without interfering with each other, and that the French have therefore—that is, under the condition of their own full occupation of the really valuable part of the coast for cod fishing—the right practically to enjoy their Fishery to the exclusion of British subjects, "as completely as if that right was confirmed to them in express terms."

But a right thus qualified, materially differs from a right "confirmed to them in express terms," and with all the legal force which would be imparted to it by a Treaty and an Act of Parliament—such a right as was in fact proposed to be conferred by Mr. Thomas in 1844, by Mr. Archibald in England in 1853, and by the Executive Council of the Colony in the same year.

An exclusive right thus legally *conferred*, instead of merely being *practically* exercised as the result of the absence of competition,—must necessarily carry with it the power to prevent British subjects from fishing, even though the coast should not be fully occupied by French Fishermen,—a state of things which the continuance of the late Russian War for another year would assuredly have brought about—and also be inevitably followed by the other powers, granted in the Convention, and previously acceded to by Mr. Archibald and by Mr. Hamilton's Council, *viz.* : to destroy British Buildings and to expel British Vessels and Subjects under French authority alone, while it would as certainly lead to the sanction of the continued residence of French subjects on the coast.

Do GOVERNOR DARLING's proposals contemplate measures such as these? Let a reference to his Despatch answer the enquiry. Utterly rejecting the French demand to be permitted to fish for Cod upon the Labrador, and for Bait on the South coast of Newfoundland; characterizing those demands indeed, as "perfectly preposterous" as, when regarded in their national bearing, "wholly on the French side": and declaring the alleged claim of the French, on the ground of usage, to fish at Belle Isle to be "*wholly untenable*," since, as he shows, they were warned off by Proclamation of one of his Predecessors so far back as 1763; he takes his stand upon all other points, upon the "Treaties, the whole Treaties, and nothing but the Treaties," boldly explaining that he assumes this position, in the interest of British subjects, upon

a full consideration of the existing state of things—of the infraction of the strict letter of those Treaties, which had taken place on both sides ; and upon the fact, that the sacrifices on either side, which this principle would require, would be so much greater on the part of the French than on that of the English, that it would assuredly in no way disturb the British settlements and residents upon the French Shore, which he affirms have not only never occasioned “ the slightest real infringement upon the privileges and advantages conceded to the French, but on the contrary, have operated very much to their benefit and convenience.”

This view of the extent of the sacrifices to which the French would be exposed, is based upon the result of his own observation and enquiry to the effect that the French establishments upon the coast “ although in most cases of a temporary character, yet far exceed in extent and variety mere huts necessary and usual for drying fish, (as limited by the Treaties) and the residence of British subjects has been always deliberately encouraged by the French ; since in them they find the necessary “ gardiens” for “ their establishments when they themselves return to Europe at the close of the fishing season.”

Further on in the same Despatch, (Paragraph 19) he gives strength to his opinion, and indeed, undermines the whole grounds of the necessity assigned by Her Majesty’s Government for new arrangements, by observing, “ that he is not aware of any differences that have occurred in recent years connected with the Newfoundland Fisheries, which are calculated to endanger the amicable relations subsisting between Great Britain and France.”

Even in respect to the Salmon Fisheries, GOVERNOR DARLING’S views are far more favorable to British interests than the conditions of the Convention or the terms acceded to

by Mr. Archibald and the Executive Council of 1853.—These all concede the right as high as the “*salt water*.” GOVERNOR DARLING regards that right as distinctly limited under existing Treaties to “all kinds of fish that can be caught upon the coast.” (House of Assembly Papers, Page 58.) The word “Coast” being defined (on the authority of Johnson) in the printed Convention Papers, and therefore no doubt before Mr. Darling, when he drew up his opinion as “the edge or margin of the land next the sea; the shore. It is “not used for the Banks of less waters.” (House of Assembly Papers, Page 14.)

Does GOVERNOR DARLING’S settlement on the principle of the “Treaties, the whole Treaties, and nothing but the Treaties,” involve a right of strand of half a mile in width, or the cession to the French of the exclusive use of Groais and Belle Isle; (the Grey Islands) upon one of which a British settlement has been for some years established; or is there a syllable in all he has written on the subject, which can be tortured into an admission of the French right to these advantages under the Treaties?

But unfortunately not only these advantages, but the concession of an *exclusive right* with all its legal consequences, already referred to upon the best *coastal fishing grounds* of *Newfoundland* were consented to by Mr. Hamilton’s Council, as the *basis* upon which a *revision of subsisting Treaties* might be made; and the necessity for such a revision urged by asserting the existence of continued aggressions and disputes.

More need not now be said on these points.—It is a matter of perfect notoriety, that the impartial and most intelligent portion of the community, including many influential merchants resident in Newfoundland, regard the settlement suggested by Governor Darling, as that which at the present period of the History of the Colony is of all feasible arrange-

ments the best calculated to promote its interests ; and that this opinion will be shared in by the merchants resident in England generally, may be fairly inferred from the Memorial addressed to the House of Commons by that portion of those gentlemen who are doing business at Liverpool, in which they distinctly affirm, " that there is no wish on the part of the British Merchants or Fishermen to *unsettle the conditions and regulations of the existing Treaties* between the two countries in reference to the said Fisheries ; that no disputes or *misunderstandings have arisen such as need render it necessary to define their respective rights, much less to change them.*"

A large majority of the Legislative Council of the Colony entirely concur in Mr. Darling's views, and have emphatically expressed that concurrence. There is no doubt that the majority of the House of Assembly also would have affirmed the same opinion, had the proper opportunity been afforded—Battle was in fact offered on this ground and prudently declined ; but the party who shrank from open fight, have not been ashamed to resort to more covert warfare.

Suppression and garbling of public Documents, to which more than one of these persons and their coadjutors of the Press have resorted, have tended to mystify, in some degree, minds well disposed to give honest consideration to a question in which all the inhabitants of the colony are so deeply concerned.

The author's object has simply been to clear up this mystification, and to defeat the schemes of those who have recklessly maligned public character, and impeached moral principle, for no better reason than that the occasion was one which might be turned to account in the promotion of their own political and pecuniary interests.

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(APPENDIX No. 1.)

(COPY.)

No. 66.

Newfoundland,

Government-House,

St. John's, 23rd July, 1856.

SIR,—The Question of the Colonial Fisheries, and of the relative Rights of France and Great Britain upon the Coasts of Newfoundland under existing Treaties, has naturally engaged my attention from the moment of my assumption of the Government ; and my recent voyage round the Island, including a visit to the Labrador Coast, has afforded me opportunities of personal observation and information, which have enabled me either to correct or confirm the opinions on this subject, which I had previously been led to form.

2nd.—Under the impression that the negotiations with France upon this question, which were brought under the notice of my predecessor, in the Duke of Newcastle's Confidential Despatch of the 19th August, 1853, and upon which Mr. Hamilton reported in his Despatch, No. 67, of the 28th September, in that year, have been actively resumed since the conclusion of the general peace : I think it my duty respectfully to submit to Her Majesty's Government the conclusions at which I have myself arrived, after a careful consideration of the various points involved, and with a considerable knowledge of the opinions of those whose interests are largely concerned in any change which should materially alter the position in which that question at present stands.

3rd.—In the first place, I must beg to observe, that I am dealing with the whole question upon a very different basis from that adopted by my predecessor. Mr. Hamilton refrained from any discussion of the claim of the French to an exclusive right of Fishery within the limits assigned to them by Treaty, observing that he considers it unanswerably shewn by Documents, to which he refers, that that claim is without any foundation.

4th.—In this conclusion I find myself unable to concur, and as, after examining the question to the best of my ability, and considering it by the light of such Documents as are within my reach in the colony, I have drawn up the Rationale of my opinion, I take the liberty of transmitting a copy of that paper herewith.

5.—The mere Question of Right, however, does not appear to be of much importance, since the latest Instructions of Her Majesty's Government, conveyed by Lord Stanley's Despatch to Governor Sir John Harvey, No. 104, of the 29th July, 1843, lays down for the guidance of the Local Government, the decision that "Great Britain is bound to permit the subjects of France to fish during the season in Districts specified by the Treaty and Declaration of 1783, free from any interruption on the part of British Subjects, but that, if there be room in these Districts for the Fishermen of both Nations to fish without interfering with each other, this Country is not bound to prevent her Subjects from fishing there." And further, that as there is "no Limitation in the Treaty as to the description of fish which the French are entitled to take; their claim to fish for Salmon must also be admitted to its full extent." This decision is based upon the opinion of the Crown Law Officers, dated 30th May, 1835, to the effect that the French "have the exclusive right of Fishery," modified by their subsequent statements of the 17th April, 1837, that in their previous opinion they (the Crown Law Officers) have gone further than the circumstances of the case fairly warrant, and that they thought "Great Britain has bound herself to permit the Subjects of France to fish during the season in the allotted District, free from any interruption on the part of British subjects," and adding, that if there were really good room "within the limits of the District in question, for the fishermen of both Nations to fish without interfering with each other, then we do not think that this country would be bound to prevent her subjects from fishing there. It appears, however, from the Report of Admiral Sir P. Halket, that this is hardly practicable, and we are of opinion that, according to the true construction of the Treaty and Declaration, British Subjects are precluded from fishing, if they thereby cause interruption to the French Fishery."

6th.—At the present time, as at the period of Sir P. Halket's Report, and at that of Sir T. Cochrane's Report on the 26th November, 1830, there is unquestionably no room for the Fishermen of both Nations to fish and dry fish within their French limits without interfering with each other—and the French have therefore always had, and have at present,

the right practically to enjoy their fishery to the exclusion of British Subjects as completely as if that Right was confirmed to them in express terms.

7th.—Starting then from this point, I conceive that the French are entitled to expect, that not only all fixed Settlements should be removed, but that all British Subjects should be required to depart from their limits, during the annual period of their temporary occupation of the Coast for Fishing purposes. If this be conceded and enforced, every demand which the French have even the color of a right to address to Great Britain, upon the ground of Treaty obligation, will have been complied with. But, on the other hand, a similar rigid compliance with the letter of the Treaties, and the interpretation given to them, as shown by the Proclamations of the Governors of Newfoundland, would of course be required on the part of the French. And Her Majesty's Government may be assured, that as this mutual obligation would involve sacrifices on the part of Commercial Associations in France, in connexion with a system founded on national policy, far greater than they could entail upon the interests of British Subjects, and those subjects very few in number, no such rigid proceeding would be insisted upon. The French Establishments upon the coast, although in most cases of a temporary character, yet far exceed in extent and variety mere "stages and huts necessary and usual for drying fish," and the residence of British Subjects has been always deliberately encouraged by the French, since in them they find the necessary "guardians" for their Establishments when they themselves return to Europe at the close of the Fishing Season.

8th.—In negotiating therefore with the French upon this point, I believe that if the principle of "the Treaties, the whole Treaties, and nothing but the Treaties" be insisted upon and seriously proposed to be enforced, it will be found there is no *bona fide* desire to disturb the existing irregular state of things, which has not only never occasioned the slightest real infringement upon the privileges and advantages conceded to the French, but on the contrary has operated very much to their benefit and convenience. Within the scope of these observations I distinctly include the Settlement of St. George's Bay, which has sprung up not merely without encouragement upon the part of the British Government, but in defiance of Proclamations from the British Authorities in Newfoundland, issued at various periods since the Peace of 1783. The Address of Governor Sir John Harvey to the Inhabitants of this Bay, as late as the year 1844, (see his Despatch of the 2nd September of that year) clearly refers to the very equivocal

nature of the circumstances under which that Settlement had attained its then existing dimensions, and affirms the temporary nature of the residence of its inhabitants.

9th.—This rigid enforcement of the Treaties according to the French construction of them being conceded, the objects which the French now seek to obtain can only be regarded as additional advantages for which they offer what they must be presumed as considering to be an equivalent. The proposed advantages to be conferred upon the French are :

1st.—The Right to purchase and fish for Herrings and Caplin on the South Coast of Newfoundland.

2nd.—The Right to fish during two months (without curing or drying on shore) on a part of the Labrador.

3rd.—The Right of Fishing at Belle Isle, at the Northern extremity of the Straits of that name. The equivalent concession on their part was to be an admission of the right of British Subjects to inhabit St. George's Bay, and to carry on the fishery there *in common* with the French citizens.

10.—When it is borne in mind that the fishery in the Bay of St. George is simply a Herring Fishery; that so far as it is carried on by the French, it is so carried on solely for the purpose of obtaining Bait for their Cod Fishery on the Coast North and South in the immediate neighbourhood in the Bay of St. George—that they now obtain this Bait to any extent which they desire, and that it is well known that in other respects the existence of the settlement is a convenience and advantage to them: their expectation of obtaining, in return, the absolute right to purchase and fish for bait for the prosecution of their *Bank Fishery*, and in addition to their present exclusive privileges on about four hundred miles of the coast of Newfoundland, (including some of its best fishing grounds) a participation in the valuable Fisheries of Labrador and off the Island of Belle Isle, amounts to a pretension on the part of the French, which I must say, can only be looked upon as perfectly preposterous, and has been very properly regarded as such by Sir Anthony Perrier, Mr. Archibald, and Mr. Strachey. Their proposition may indeed be justly described, when regarded in the national bearing, as one of which the advantage is *wholly* on the French side.

11th.—As it is notorious that the French never fail to obtain a supply of Bait upon the South Coast to the value of at least £20,000 a

year, an admission to which effect has occasionally been made by French Officers and Authorities ; there can be little doubt that their main object in the specific proposals put forth in 1852, is to secure an acknowledged footing on the Coast of Labrador and off Belle Isle.— During my recent tour when at Croq and Cape Rouge Harbors, I had more than one opportunity of testing the great importance the French attach to the Fishery at Belle Isle ; and they were all well informed of the fact that the Colonial Government had appointed a Cruiser to protect that Fishery during the present season.

12th.—I have already, on more than one occasion expressed my opinion, that, under the operation of the Reciprocity Treaty with the United States, it will be impossible to prevent the French from obtaining ample supplies of Herring and Caplin Bait ; but if their desire to possess a right to purchase it from the British Fishermen on the South Coast, be a *bona fide* one (and I think it would be very unjust to our Fishermen, to give under any circumstances a right to the French to *fish for Bait* beyond the Mid Channel, as at present prescribed) the British Government will, of course, be in a position to demand some equivalent advantage ; and, in that case it might be proposed to the French to surrender their exclusive Right in St. George's Bay, viz : on the coast between Cape St. George and Cape Anguille, without any restriction as to purchasing Bait there—and from Cape Anguille, Southward, to Cape Ray.

13th.—By such an arrangement, the only Cod Fishery they would be asked to abandon, would be that at Cod Roy, to the Southward of Cape Anguille ; while they would retain those to which they attach much importance, to the Northward of St. George's, viz : Red Island, Port a Port, and Lark Harbor. If the point of difficulty should be found to consist in the surrender of the Fishery at Cod Roy, and appear insurmountable, the proposal might be eventually limited to the coast of St. George's Bay, viz : between Cape St. George and Cape Anguille.

14th.—If, however, the French, comprehending the facility with which, as I assume, they may in future obtain Bait through the Americans, should abandon altogether that question, as one of no importance, and although the prospect of the cession of their temporary rights in George's Bay and its neighbourhood, should altogether fall with that abandonment, I must still very strongly urge my opinion against any further privilege or advantage being conceded to the French beyond those which they now enjoy by Treaties, and which I would pro-

pose should be reciprocally enforced in all their details according to the views I have already explained. But above all, I would earnestly protest against any grant of *concurrent* or *common rights*; for I am confident that no arrangement could be more dangerous to the preservation of good understanding and concord between the subjects of both Nations.

15th.—I may here remark that any argument as to equitable claim on the part of the French to be admitted to the Fishery at Belle Isle, which may be advanced upon the ground that they were tacitly permitted to enjoy it until 1841, is wholly untenable. That Island formed no part of the additional coast, the right to fish on which was ceded in 1783, by the Treaty of Versailles; and even so far back as 1703, Governor Hugh Palliser issued a Proclamation in consequence of French boats having persisted in resorting to that Island, notifying that all French vessels or boats which should hereafter be met there would be seized and confiscated.

16th.—In respectfully offering these opinions upon the French proposals, I have reference to no other Documents upon the subject than the Confidential Despatches of the Secretary of State to my predecessor, dated 17th August, 1852, and 19th August, 1853, respectively, with their enclosures, and I am therefore of course, unaware whether any concessions of national importance, apart from the Newfoundland Fisheries, have been offered by the French to counterbalance the greatly increased advantages they have sought for themselves, in connection with those fisheries—or whether considerations of State policy may be deemed to render it expedient that such advantages should be yielded without equivalent concessions.

17th.—It would be beyond my province to deal with considerations of that nature, even if any such exist; I can neither surmise what may be the circumstances which constitute the question a difficult and hazardous one, as represented in Mr. Addington's letter to Mr. Merivale of the 26th June, 1853—nor am I acquainted with any differences that have occurred in recent years, connected with the Newfoundland Fisheries, which are calculated to endanger the amicable relations subsisting between Great Britain and France.

18.—There is certainly one large point of view, in which the whole question presents itself, to which I shall, I trust, be pardoned for adverting.

19th.—A glance at the map shows the position which this Island occupies in the territorial expanse of the British Government, lying considerably nearer to the Mother Country than any other of her Transatlantic Possessions, distant in fact at the present rate of locomotion, only about 104 hours steaming from the nearest point of the British Islands; commanding by its situation the ocean approaches to those splendid Provinces whose resources and spirit of enterprise are rapidly bringing them up to a level with States dignified with the name of "Nation;" the effort about to be made, and there is just ground for hoping, made too with success, to place it by means of Electric Communication within a few minutes reach of the Instructions of the Imperial Government; its shores abounding with fine harbours, and its surrounding seas with the sources of wealth, while its inhabitants are a manly and energetic race, derived for the most part from those portions of the United Kingdom which are nearest to the Colony itself—it may fairly be regarded as being, for all political and commercial purposes, in as close connection with the Parent State as Ireland and the Channel Islands were at the close of the last century. Yet, the political position of a dependency thus favored is such that a foreign State enjoys—and cherishes with a full appreciation of its value and importance—a right to the use of at least one half its line of coast, and avails itself of the right in such a manner, as effectually to close that portion of the Coast, for all practical purposes, against the people of the State to which the soil of the Colony belongs.

20th.—England possesses an abundance of wealth, which she seems never reluctant to pour out for a truly national object; and the object of redeeming this valuable possession from its present unnatural position might not be deemed altogether unworthy of the consideration of the Imperial Government and Parliament; while such a consummation would, without violating any principle of commercial freedom, assuredly augment to an incalculable extent the profits of the national capital employed in this quarter of Her Majesty's Dominions.

I have, &c.,

(Signed,)

C. H. DARLING.

The Right Honorable

H. LABOUCHERE, M. P., &c., &c., &c.

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(APPENDIX No. 2.)

*Extract from Mr. T. Hyde Villier's Letter to R. W.
Hay, Esq., 20th Oct., 1830.*

The French Minister next proposed as an abatement of his former demand, that England should give up exclusively, to the French during the Fishing season, the whole of the coast from Cape St. John, passing round the Northern Point down to Cape Ray on the South Western extremity (the point to which upon the authority of Herman Moll, they had already pretended a right of extending their Fishery) and round to a place on the Southern Shore, called Cape May, in the Map of Herman Moll (this place is not laid down in some maps, but is situate in latitude, 48 degrees, and longitude 54 degrees.) He alleged this would have the peculiar advantage of settling at once the two points in dispute,—it would give the French compensation for the territory they have lost, and would do away with their differences respecting the true situation of Point Riche. This was refused, and the first concession made was, that of offering to fix Cape Ray as the boundary to the South-westward, giving to the French about 190 miles of coast, instead of about 60 or 70 miles of coast on the other side, which they gave up.

To this M. de Vergences agreed (6th Oct. 1782) in an official note, on the condition that the French should enjoy their Fishery to the exclusion of the English.

28th Oct. 1782. Mr. Fitzherbert insisted on the very ample additional share of coast that was offered, and that the French Court should be content, without insisting upon their demand for an exclusive fishery; and he reports the Minister not to be disposed to insist strenuously on the point.

5th Nov. 1782. At length, however, it was found that this point of exclusive right was the only remaining point of difference between the negotiators. After much argument, Mr. Fitzherbert gives the following account of the arrangement which was made, viz. : that he at last ventured to propose as a *mezzo termini* (taking care, however, to add

that the proposition came merely from himself) that the exclusive right should not be mentioned in the Treaty, but that we should promise "ministerielment," to secure it to the French Fishermen, by means of proper instructions to that effect to the Governors of Newfoundland, and to this M. de Vergennes consented. Lord Grotham, Secretary of State for Foreign Affairs, thus expresses himself in reference to the preliminary articles, (after he had received the above) "Great pains have been taken to avoid mentioning the fishery as exclusive right; the 3rd Article is cautiously worded for that purpose. However it is very desirable that it should be left out, and that the French should be contented with as strong assurances of not being molested, as can be given in the King's name." France complained with reason that the French Settlements of the British had trespassed upon her concurrent rights. It would have been a remedy for this, if Great Britain either had conceded an exclusive right upon another part of the coast, or had reformed her own probity with a view to restrain the encroachments of her subjects. It is plain, however, that neither of these cases could well have been adopted. Any promise of reform in the conduct of the British fishermen, after the correspondence that had passed between the two Courts during the peace of 1763, would probably not have proved satisfactory to France; and the British Minister dared not, and expressly refuses to, concede the *exclusive right*. A "mezzo termini" was therefore proposed and agreed to, namely, that although England should reserve her right of Fishing, yet that France should have the strongest possible guarantee against the recurrence of her former causes of complaint, which should be *binding in all time to come*; and that so long as the private promise of the existing Administration in England could be binding, they should, by Instructions to the Governor, be allowed the exclusive enjoyment of their Fishery: thus leaving completely open the future resumption of the right, at any period when it might be found practicable, otherwise to secure France upon the points upon which she had the guarantee of England.

* AUTHOR'S NOTE.—If succeeding Administrations had not all upheld and continued this promise, the case would doubtless be very different.

Since the foregoing pages went to Press, the following important Despatches from the Secretary of State for the Colonies have been received by GOVERNOR DARLING. They convey the gratifying intelligence that the Convention is a *dead* letter—that our “*maritime and territorial Rights*” are guarded safely by our own Constitution—that the British Government will not attempt to alienate or share them with any Foreign Power without the consent of the Local Legislature, proving, beyond cavil, the efficacy of Self-government, and the honesty of the course pursued upon this important question by Mr. DARLING and his Ministry. What a pity that the sanguine hopes of the Opposition Delegates of discovering in Downing Street a flaw in His Excellency’s political virtue and fidelity to the Colony, have been thus prematurely blasted! Their golden prospects are now worse than “dead sea fruits,” and if their friends and admirers cannot fully participate in the exultation of the rest of the Inhabitants, arising from the vindication of their Rights by the local Government, and their prompt recognition by the Crown, perhaps they may derive some consolation from an attentive perusal of these pages—and thus become wiser and more discreet in the formation of their opinions and the expression of their censure:—

(Copy,
No. 66.)

DOWNING STREET. }
26th March, 1857. }

SIR,—I have to acknowledge your Despatches of the numbers and
No. 8, 7th Feb., '57. dates specified in the margin.
11, 3rd March.
12, 4th March.
13, 5th March.

When Her Majesty’s Government entered into the Convention with that of France, which has formed the occasion of that correspondence, they did so in the hope of bringing to a satisfactory arrangement the many complicated and difficult questions which have arisen between the two countries on the subject of the Newfoundland Fisheries. But they did so with the full intention of adhering to two principles, which have guided them and will continue to guide them, namely, that the rights at present enjoyed by the community of Newfoundland are not to be ceded or exchanged without their assent, and that the constitutional mode of submitting measures for that assent is by laying them before the Colonial Legislature. For this reason they pursued the same form of proceeding which had been before pursued in the case of the Recipro-

city Convention with the United States, and which was in that case adopted and acted upon by the Newfoundland Legislature. It was in perfect uniformity with the same precedent, that it appeared necessary in the present instance to add a condition respecting Parliamentary Enactment, in order that, if necessary, any existing obstacles to the arrangement in the series of Imperial Statutes might be subsequently removed.

The proposals contained in the Convention having been now unequivocally refused by the Colony, they will of course fall to the ground; and you are authorized to give such assurance as you may think proper that the consent of the community of Newfoundland is regarded by Her Majesty's Government as the essential preliminary to any modification of their territorial or maritime rights.

I have, &c.,

(Signed,)

H. LABOUCHERE.

GOVERNOR DARLING, &c., &c., &c.

(COPY,
CONFIDENTIAL.)

DOWNING STREET, }
26th March, 1867. }

SIR,—In connection with my Despatch of this day's date, answering yours on the subject of the reception of the Fishery Convention by the Legislature of Newfoundland, I have to convey to you the full approval of Her Majesty's Government of your own conduct in reference to the measure which they entrusted to your charge.

I have marked this Despatch "Confidential," but you are at liberty to make such use of it as you may yourself deem expedient.

I have, &c.,

(Signed,)

H. LABOUCHERE.

GOVERNOR DARLING, &c., &c., &c.

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