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FRENCH TREATY RIGHTS

IN

NEWFOUNDLAND.

THE CASE FOR THE COLONY

STATED BY

THE PEOPLE'S DELEGATES,

James Pearman
SIR J. S. WINTER, K.C.M.G., Q.C.; P. J. SCOTT, Q.C.;

Ernest Bishop
AND A. B. MORINE, M.L.A.

LONDON:

P. S. KING & SON, PARLIAMENTARY BOOKSELLERS,
5, KING STREET, WESTMINSTER, S.W.

JUNE, 1890.

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DR. A. R. WINTER-KOHLG. AND T. J. SCOTT, G.C.
AND A. R. MORRIS, M.L.A.

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L. R. KING & CO. PARLIAMENTARY BOOKSELLERS
1, KING STREET, WASHINGTON, D.C.

1980

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CHAPTER I.

INTRODUCTORY.

ANNOUNCEMENT OF "MODUS VIVENDI."

The Legislature of Newfoundland was summoned to meet on the 6th day of March last for the despatch of business. In the speech from the throne, on the 7th of that month, the Governor used the following words:—

"The Right Hon. the Secretary of State for the Colonies has acquainted me that *negotiations are in progress* between the Governments of Great Britain and France, for a settlement of questions that have arisen with regard to the right of the subjects of the two nations respectively to catch and preserve lobsters on that part of our coast where the French have a current right of fishery, and it is hoped that a provisional arrangement for the present season may be arrived at, which I trust may pave the way to a satisfactory settlement of this difficulty."

The announcement that "negotiations are in progress" created considerable interest; but it was naturally supposed that the correspondence upon the subject would in due course be laid before the Legislature, and its assent received in the ordinary way before any arrangement was irrevocably entered into. The surprise felt by the public was great, therefore, when, on the 14th day of March, *only eight days after the first announcement of negotiations*, a telegraphic message to a news agency from one of its correspondents abroad announced that "a *modus vivendi* between Great Britain and France, relative to the canning of lobsters, has been concluded." Still greater surprise was felt by the people of Newfoundland when, moved apparently by the revelation already made, the Governor transmitted to the Legislature a message* announcing that an arrangement had been concluded whereby the subjects of France were for one year, at least, permitted to maintain permanent structures upon the

* See page 47.

coasts of Newfoundland, in opposition to express treaty provisions, and to carry on an industry to which the British law officers themselves have officially declared they have no legal right.

LEGISLATIVE AND POPULAR ACTION.

Surprise was rapidly followed by indignation, which found expression in resolutions unanimously adopted by the Legislature,* and by public mass meetings, strongly condemning the *modus vivendi* itself, but more strongly condemning its conclusion without the consent of the people and Legislature. A great public mass meeting, held in St. John's, the capital of the colony, adopted resolutions (1) condemning the manner in which the *modus vivendi* had been concluded, and (2) the terms and conditions of the arrangement itself.† The first resolution was as follows:—

“ *Whereas* the negotiations leading to the adoption of the “ *modus vivendi* between Her Majesty’s Government and the “ Government of France were commenced, and carried on, and “ the arrangement itself concluded, without the consent, and “ even without the knowledge, of the community or Legislature “ of this colony ;

“ *And whereas* it is a fundamental principle of responsible “ government that the people shall directly, or through their “ representatives in Parliament assembled, be consulted concern- “ ing all matters appertaining to their government, and more “ especially to their territorial and maritime rights ;

“ *And whereas* the application of this constitutional principle “ to this colony has been especially guaranteed by Her Majesty’s “ Government in a despatch bearing date the 26th day of March, “ A.D. 1857, stating ‘ that the rights enjoyed by the community “ ‘ of Newfoundland are not to be ceded or exchanged without “ ‘ their consent, and that the constitutional mode of submitting “ ‘ measures for that consent is by laying them before the Colonial “ ‘ Legislature,’ and ‘ that the consent of the community of New- “ ‘ foundland is regarded by Her Majesty’s Government as the “ ‘ essential preliminary to any modification of their territorial or “ ‘ maritime rights ’ :

* See page 48.

† See page 48.

“ *Be it therefore Resolved*,—That the commencement, continuation, and conclusion of the negotiations for the *modus vivendi* without the knowledge and consent of the community or Legislature were in direct violation of our constitutional rights, and of the particular engagement with the people of Newfoundland which Her Majesty’s Government voluntarily made; against which violation we record our most earnest protest, and to which we as a free people will never consent.”

PRACTICAL MEASURES ADOPTED.

The indignation aroused by the conclusion of this new arrangement resulted, not alone in an agitation upon the question of the right to take and can lobsters upon the coasts of Newfoundland over which the French have certain treaty rights, but also upon the whole question of the treaty rights aforesaid, and the necessity for their immediate and entire termination. The mass meeting referred to unanimously adopted resolutions declaring that the continued prosperity of the colony was not compatible with the exercise of French rights and claims in any part of Newfoundland,* and urging their immediate abrogation. The following resolution was also adopted:—

“ *Whereas* it is desirable that united action of the people of Newfoundland should be had in protecting the rights of this colony against the encroachments of the French :

“ *Resolved*,—That the committee who have had charge of the arrangements of this meeting shall have power—

- “ 1. To invite the co-operation of the people of the outports ;
- “ 2. To prepare a memorial to Her Most Gracious Majesty the Queen, and to both Houses of Parliament, in accordance with the foregoing resolutions ;
- “ 3. To choose delegates to present said memorials, and to place our case before the people of Great Britain and Ireland and the British Colonies ;
- “ 4. To adopt such further measures as may be deemed advisable for the promotion of the objects of this meeting.”

* See page 38.

At a subsequent meeting of the said committee, the following resolutions were unanimously adopted:—

“ *Resolved*,—That a delegation consisting of Sir J. S. Winter, Q.C., K.C.M.G., P. J. Scott, Esq., Q.C., and A. B. Morine, Esq., M.L.A., be appointed to proceed to England to lay the case of the people of the colony before Her Majesty’s Government and to enlist the support of the British public.”

“ *Resolved*,—That a delegation consisting of D. J. Greene, Esq., Q.C., M.L.A., P. R. Bowers, Esq., and Donald Morison, Esq., M.L.A., be appointed to proceed to Canada to enlist the support of the Canadian people.”

Requests for the co-operation of the people of the outports were not necessary, and upon page 121 will be found indications of the promptness and unanimity with which they voluntarily acted. A memorial to Her Majesty has been prepared and largely signed, and will soon be presented in the ordinary way. Petitions to the House of Lords and the House of Commons have also been numerous signed, and will be presented in due course.

DELEGATES TO CANADA.

The delegation to Canada has met with unqualified success. Upon motion of the Premier, seconded by the Leader of the Opposition, the House of Assembly of Prince Edward’s Island unanimously adopted the following resolution:—

“ *Whereas* the claims of the subjects of France to exclusive fishing and curing of fish on certain portions of the coast and waters of Newfoundland retard the development of that island ;

“ *And whereas* it is the opinion of this House that as Newfoundland enjoys the privileges of responsible government, the coastal fisheries within the jurisdiction of the said colony should not be granted or given away without the consent of the local Legislature of that colony ;

“ *And whereas* the *modus vivendi* recently entered into between the Government of Great Britain and the Republic of France constitutes an alienation of such coastal fisheries without the consent of Newfoundland :

“ *Therefore Resolved*,—That the action of the citizens of

“ Newfoundland in protesting against any further concessions
 “ of fishing rights to the citizens of France, and that the con-
 “ tention of Newfoundland in denying the right of the Imperial
 “ Government to enter into any treaty or agreement with the
 “ French Government affecting said fisheries without the consent
 “ of the local Legislature, meet with the approval of this
 “ House.”

In Halifax, Montreal, Toronto, Hamilton, St. John, N.B., and other large centres of population strong resolutions have been adopted in favour of the views held by the people of Newfoundland, urging the Imperial Government to bring about the desired arrangement.

The following resolution, first adopted at Halifax, has also been adopted in the other cities referred to:—

“ *Resolved*,—That the Board of Trade of Halifax, having
 “ heard the delegates from Newfoundland on the question of
 “ French rights and claims on the coast of Newfoundland, desire
 “ to express their warmest sympathy with the people of New-
 “ foundland in the efforts they are now making to assert their
 “ constitutional rights.

“ *Resolved*,—That the Board of Trade desire to express their
 “ concurrence with the resolutions passed at a mass meeting of
 “ the citizens of Saint John’s, Newfoundland, held on the 26th
 “ day of March last, and feel convinced that it is the duty of the
 “ Imperial authorities to relieve the colony of Newfoundland
 “ from a condition of affairs which has become so anomalous and
 “ intolerable.”

DELEGATES TO GREAT BRITAIN AND IRELAND.

The delegates to Great Britain and Ireland arrived at Liverpool, *via* Halifax and New York, on the 12th inst., and have now the honour of laying before the British people the case of those whom they represent. In this pamphlet they have endeavoured to make manifest those hardships under which Britain’s “ most ancient colony ” has suffered long, under which her development has been hindered to an incalculable extent, and escape from which seems now a necessity to the continuous existence of her people within her borders. In

this endeavour the delegates have constantly kept in view the need of brevity upon the one hand and of completeness upon the other, and have therefore placed in the Appendices to the pamphlet all the matter which it seemed desirable to publish, but which was not strictly necessary to an understanding of the questions involved. The reader who is desirous of obtaining fuller knowledge of these important questions will find in the Appendices much that will interest and instruct, and will be well repaid by a close study of subjects which have occupied the minds of British statesmen for many generations almost as much as any other topic. In stating their own views the delegates have been moderate, preferring rather to have conviction enforced by the facts than by any arguments used by them. Those facts have been carefully inquired into, no statement has been made which cannot be proved, and the record of the wrongs under which Newfoundland has long suffered, and which are to-day intolerable, must speak so eloquently to a people whose sense of justice is their most distinguishing trait that its publication cannot fail to create a public sentiment which will demand for Newfoundland the treatment it deserves.

FAITH IN THE BRITISH PUBLIC.

Weary years of waiting, and the failure of all diplomatic arrangements ever made upon this subject, have convinced the people of Newfoundland that no Government of this country can be expected to grapple with the question in the only manner by which it can or will be settled, unless the public conscience has first been aroused to the injury inflicted upon a loyal portion of the British people, and the public judgment convinced that the claims made by Newfoundland are wholly right and just. The Newfoundlanders have faith in the British public, believing that the dissemination of information will be sufficient to create that state of public feeling which they desire to exist; and they rely upon their delegates to convey the necessary information to the public through the press, by public meetings, and in all other convenient forms. The press has already warmly and unanimously espoused the cause of the colonists, and the delegates desire now to express, on behalf of those whom they represent, and personally also, their heartfelt thanks for the able manner in which the

journals of Great Britain and Ireland have treated the question of French claims and rights upon the coasts of Newfoundland.

CHAPTER II.

FRENCH RIGHTS AND CLAIMS.

HARDSHIP, INJUSTICE, AND INDIGNITY.

The question of French "rights" and "claims" on the coasts of Newfoundland is of so long standing, and has been the subject of so much correspondence, negotiation, and other discussion, that to those who have given attention to the subject it is not now presumed to furnish any important facts or arguments which have not already been stated on behalf of the colony. The object of the present pamphlet is rather to present the whole subject in a somewhat new light, or from a new and different point of view, in the hope of awakening a more general interest on the part of the British public in a question vitally affecting the welfare of a portion of Her Majesty's colonial possessions—in the conditions of hardship, injustice, and indignity under which the people of Newfoundland are suffering, and which are without parallel in any part of Her Majesty's dominions.

At the outset, and for the information of those who have not so far studied the question, it may be useful to call attention to certain geographical and other facts, as to which there exists a considerable confusion of ideas.

TWO DISTINCT FRENCH FISHERIES.

The operations of the French fishermen in and in connection with Newfoundland consist of two wholly distinct and independent parts or divisions. The one is the fishery on the Banks of Newfoundland, the other that which is prosecuted on those parts of the coast of Newfoundland commonly called the "French shore." The fishing grounds of the Banks of Newfoundland stretch along to the southward of the island, covering a large area, and distant from the coast of Newfoundland about 30 miles at the nearest

point. To these Banks the fishermen of France, of Canada, of the United States, and of Newfoundland resort during the fishing season. These fishing grounds are on the "high seas," which are the common property of all nations, or rather the property of none, subject to the jurisdiction of no country or nation. To this fishery, as such, the Newfoundland treaties "question" has strictly and properly no relation whatever. Its connection with Newfoundland is only in the fact that there is on the south coast of Newfoundland a group of islands called St. Pierre and Miquelon, forming an entire and separate French colony or settlement, inhabited by an almost exclusively French population, from which islands the Bank fishing is prosecuted by the French in vessels, of which some come to St. Pierre in the spring from France, and others are owned, kept, and fitted out in St. Pierre. To these islands the French fishermen bring their fish caught on the Banks, for the purpose of curing and drying it. In the port of St. Pierre, until recently, the French banking fleet have been furnished with the greater part of their necessary supplies of bait, taken by Newfoundland fishermen in the bays and harbours of Newfoundland near to St. Pierre, and carried there in Newfoundland fishing craft, and sold to the French. This trade in bait between the Newfoundland fishermen and the French at St. Pierre will be more fully dealt with in a subsequent chapter as a distinct and an important matter.

These islands of St. Pierre and Miquelon are situate at a distance of about 140 miles from the nearest point of the so-called "French shore," and the fishing grounds to which the French fishermen resort on the Banks are about 100 miles from the same point, so that it will be seen that, in fact, as well as by the terms of the treaties, the French "rights" and "claims" on the Newfoundland coast have, *strictly*, no connection or relation whatever with the large and important business of the French fishery on the Banks, or with the French occupation or government of St. Pierre and Miquelon. The fishery upon the Banks, for which St. Pierre is merely a basis of operations, is, as already stated, the equal property of all nations, independently of treaties or agreements. But, as will be seen hereafter, there is a most important connection, or rather relation, between the French claims (not "rights") on the so-called French shore and the prosecution of the Bank fishing from St. Pierre—a relation which, like other

consequences of the operation of the treaties, was entirely unforeseen when the treaties were made—a relation which now has a vital bearing upon the commercial interests of the colony of Newfoundland. This will also be dealt with hereafter.

A CLEAR AND CONCISE STATEMENT.

A very clear and concise statement of the whole subject of French treaty “rights,” “claims,” and “disputes” in Newfoundland was given in a report of the Council of the Royal Colonial Institute made in the year 1875. In the following statement we have availed largely of the work of the Council, as contained in this report, in condensing and arranging the salient facts and arguments bearing upon the whole subject, so far as they are material and adapted to our present purpose.

The treaties between England and France now in force, under which the French have rights and set up claims in Newfoundland, may now be stated to be—

1. Treaty of Utrecht	...	...	...	1713
2. „ Paris	...	...	...	1763
3. „ Versailles	...	...	...	1783
4. Definitive Treaty of Peace, Art. XIII.	...			1814
5. Treaty of Paris	...	...	...	1815

Those parts of these treaties which relate to Newfoundland are set out in full in Appendix A. They may, however, briefly be stated to be to the following effect:—

1. The sovereignty of the island of Newfoundland is declared to be in Great Britain (Treaty of Utrecht, Art. XIII., renewed by Art. V. of Treaty of Paris, 1763).

2. The French are to be allowed to catch fish and to dry them on land on those parts of the coast within certain limits, now defined to be Cape Ray to Cape St. John. (The rights conferred upon the French by the Treaty of Utrecht were confirmed by the Treaty of Versailles, the coast limits only being altered, and under the Treaty of Peace, 1814, the war between England and France having suspended the operation of the previous treaties, the French right of fishing, &c., was “replaced upon the footing on which it stood in 1792.”)

3. The French are not to erect any buildings upon the coast within the prescribed limits besides stages made of boards and

huts necessary and usual for the drying of fish ; or to resort to the island beyond the time necessary for fishing and drying of fish (Utrecht).

As an aid to the construction and intention of the treaties, the French particularly rely upon the words of a Declaration of King George III., made in 1783, in connection with the Treaty of Versailles, which, being brief, may here be quoted :—

Declaration of His Britannic Majesty.

“The King, having entirely agreed with his most Christian Majesty upon the articles of the definite treaty, will seek every means which shall not only insure the execution thereof, with his accustomed good faith and punctuality, and will besides give, on his part, all possible efficacy to the principles which shall prevent even the least foundation of dispute for the future.

“To this end, and in order that the fishermen of the two nations may not give cause for daily quarrels, His Britannic Majesty will take the most positive measures for preventing his subjects from interrupting in any manner, by their competition, the fishery of the French, during the temporary exercise of it which is granted to them upon the coasts of the island of Newfoundland ; but he will, for this purpose, cause the fixed settlements which shall be formed there to be removed. His Britannic Majesty will give orders that the French fishermen be not incommoded in cutting the wood necessary for the repair of their scaffolds, huts, and fishing vessels.

“The thirteenth article of the Treaty of Utrecht, and the method of carrying on the fishery, which has at all times been acknowledged, shall be the plan upon which the fishery shall be carried on there. It shall not be deviated from by either party, the French fishermen building only their scaffolds, confining themselves to the repair of their fishing vessels, and not wintering there ; the subjects of His Britannic Majesty, on their part, not molesting in any manner the French fishermen during their fishing, nor injuring their scaffolds during their absence.”

THE CLAIMS OF THE FRENCH.

Adopting the language of the report of the Council of the Colonial Institute referred to, it may be briefly stated that “the

“claims put forward by France upon the coast of Newfoundland, and virtually enforced by her squadron there, may be resolved into two classes :—

“1. A claim to the *exclusive* right of fishing on that part of the coast extending from Cape St. John to Cape Ray, a distance including about one-half of the entire coast of Newfoundland. . . .

“2. A claim to prevent the British inhabitants of Newfoundland from any occupation of land (to the extent of half a mile from the shore) situated within those limits, for mining, agricultural, or other purposes; in fact, a claim to virtual territorial sovereignty of the same.”

Over the construction of these treaties, and upon the question as to what rights they conferred upon the French, the war (*i.e.*, upon paper) has raged with more or less force ever since the making of the treaties—the French claiming, as we have stated, practically exclusive rights, both fishery and territorial, over the whole of the coast within the limits named; the English, on the other side, contending that the rights so conferred upon the French were concurrent only with those of British fishermen, whose natural and inherent rights were never taken away either by the express words of the treaties or by necessary inference or implication; or, at most, that “Great Britain was bound only to permit the subjects of France to fish free from interruption on the part of British subjects; but 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.”

The disputes over the “questions” at issue under these old treaties have formed the subject of discussion of so varied and comprehensive a character that it is unnecessary here, more especially for our present main purpose, to do more than refer in general terms to some of the leading facts and documents—some of which will be found in Appendices—for the more complete information of those who desire to master the subject thoroughly.

ENGLISH SIDE OF THE QUESTION.

The best writers on the early history of the colony—notably

Chief Justice Reeves, whose book was published in 1793; Mr. Anspach, who wrote in 1827; and the Rev. C. Pedley, who wrote in 1863, after laborious researches into the ancient records of the colony—concur in treating and describing the French fishery on the coasts of Newfoundland as being concurrent with that prosecuted by the English; “the French,” in the language of one of the historians, Chief Justice Reeves, “retaining nothing more than a licence to come and go during “the fishing season.”

In the assertion of the English side of the question, and resistance to the French claims to “exclusive” rights, either territorial or maritime, British law officers, Ministers, diplomatists, and politicians appear to have rivalled each other in the force and appropriateness of their legal opinions, their despatches, their speeches, and other statements of whatever kind. Any quotation at length here, or even any attempt to make a selection from so much of value and importance as has been written and said upon the question would, we fear, be only unduly to burden the attention of the reader with the minutiae of a controversy the practical value of which it is not the main object of the present paper to show. For the information, however, of those of our readers who desire to master the whole subject, we would again refer to the report of the Council of the Royal Colonial Institute, already mentioned, in which will be found an able *résumé* of what may be termed the best “authorities” upon the whole question.

The questions, or issues, *as between the contracting parties*, under these treaties, having been thus briefly stated, the great importance to the colony of Newfoundland, and the duty on the part of the Imperial authorities of arriving at some satisfactory solution of these difficulties, are well and forcibly stated in a despatch from Lord Kimberley, then Secretary of State for the Colonies, to Governor Hill, dated the 6th August, 1873, from which we make the following extracts:—

“6. Her Majesty’s Government are fully alive to the considerations which render it important that the long-standing differences as to the French fishing rights and the settlements of the so-called ‘French shore’ should, if possible, be adjusted.

“7. They regret that impediments should be thrown in the

“ way of the colonisation of a large portion of valuable territory, and that the development of the mineral and other resources of the colony, which are believed to be very considerable in the vicinity of the so-called ‘French shore,’ should be delayed by the want of a clear understanding with the French as to free access on the part of the British settlers to the seaboard. The fact that the population of certain places near that shore has been rapidly increasing makes it on this account alone most desirable to arrive at a definite agreement with the French Government, with a view to prevent the recurrence of collisions and misunderstandings which, but for the forbearance and co-operation of the naval officers of the respective Governments, might lead to serious difficulties between the two Governments.

“ 8. With respect to this latter point, I need only refer to the complaints made in the years 1869, 1870, and 1871; and more especially to the seizure and confiscation by a French officer, in August, 1872, of nets, the property of British subjects; and to a collision which threatened to take place this year owing to the announcement that the French officers were prepared to insist on enforcing the claim of the French to an exclusive right of fishing, but which has been happily averted by orders recently given to the officers of both Governments.

“ 9. The whole subject has not been lost sight of by Her Majesty’s Government, who have from time to time been in communication upon it with the French Government; but, for reasons which your Ministers will understand, no favourable opportunity has recently presented itself for resuming negotiations.”

THE ROYAL COLONIAL INSTITUTE’S OPINION.

The report of the Council of the Royal Colonial Institute closes with the following terse and forcible paragraph:—

“ Such is the position of the question *at the present time*. The temper and patience of the people of Newfoundland have been sorely tried for over *one hundred years*. But this state of things cannot be expected to last for ever. The time has arrived when national policy imperatively demands that the question should be finally settled; so that British subjects may no longer be deprived of the right of fishing in their own waters, and colonising and developing the resources of their

“own territory. The interests of Newfoundland are most seriously affected by its being kept open, and those of the Empire require that its right of sovereignty within its own dominions should be maintained inviolate.”

If the language of these documents respectively—strong as it is—was justifiable and appropriate at the time when it was written, and in relation to the questions to which it applied, with how many times greater force and truth does it apply to the present condition of things, and to the new questions and new aspects of the old questions which now present themselves! And this it will now be our immediate and special endeavour to demonstrate.

WHEN THE TREATIES WERE MADE.

It may briefly be stated that when the treaties between England and France under which the French derive their rights on the coasts of Newfoundland were made, the whole condition of things, the subject-matter of the treaties, both as regards the then present facts and the intention of the contracting parties, were the *entire reverse* in every respect of that which obtains at the present time. We have now, practically and virtually, nothing left of the facts, matters, or objects to which those documents related. They now stand, as it were, unconnected with their original *raison d'être*, and the want of knowledge, or rather of appreciation, of this fundamental fact lies at the root of the difficulties which have attended all attempts at a reasonable and satisfactory solution of the so-called “French shore” problem. During the whole period covered by the dates of these treaties, from 1713 to 1815, Newfoundland was, in fact, nothing but a station on the other side of the Atlantic, to which the fishermen of England and France annually resorted for the fishing or summer season only. Although by the terms of the treaties the “sovereignty” was declared to be in Great Britain, yet, in fact, colonisation or settlement was not only not existing or contemplated, but was even prohibited by Great Britain under severe penalties. The fishermen of the two nations met on the Newfoundland fishing grounds, living on board their vessels, and prosecuting their fishing in their boats, and occupying the land, or rather the beaches on the coast, only for the temporary purpose of curing and drying their fish. So carefully was the very

idea of anything like permanent possession, or right of possession, forbidden among the English fishermen, that occupation of any particular place on the shore during one season gave no priority of claim whatever to that place for the next season. The beaches along the coast were marked out by the Fishing Admirals, as they were called, and divided into separate "rooms" or areas, each one sufficient for the fishing purposes of one ship's crew for one season; from which circumstances many of these old areas or spaces are called "ships' rooms" and "ancient ships' rooms" to this day. At the beginning of each season these rooms were assigned by the Admiral for the time being, one to each of the several ships in turn of arrival, to be used or occupied by her crew for the season. The captain of the first fishing vessel that arrived on the coast from England in the spring was the Admiral for the season, and was clothed with full judicial and administrative powers. In order to emphasise and give the fullest effect to the "policy" of preventing settlement, the inhabitants (if any) of the coast were by express law prohibited from taking up any beach or place until all the ships arriving from England were provided for. There was then, literally, no local government of any sort on the island; no courts of justice, no judges, magistrates, or other ordinary tribunals, for the administration of justice, or the protection of the people in their simplest and most rudimentary rights and liberties.

Not only was the condition of the colony virtually that of barbarism and anarchy, but the whole "policy" of Imperial legislation and government was directed to the perpetuation of that condition and the prevention of any amelioration. A few commercial monopolists in England, interested in retaining in their own hands the whole business of the fishery in Newfoundland free from competition of any sort—then the only business in the colony which was supposed to be of any value—had sufficient influence with the "authorities" to secure the continuance of this state of barbarism in the island for many years, until the appearance and gradual growth of civilising institutions took place.

It cannot but be obvious how utterly futile it must be to attempt to construe and give effect to treaties made in such times, under such circumstances, and in relation to such con-

ditions, so as to make them applicable, or possible of application, to the circumstances of a British colony struggling for its proper place in the civilisation of the age.

SINCE THE TREATIES WERE MADE.

A very brief glance at a few facts in the history of the colony since the making of these treaties is necessary to a correct understanding of this "question." By slow degrees the colony (in which we do not at present include the "French shore") has emerged from barbarism into civilisation, and its present position (subject to this exception) is that of a British colony in the full enjoyment of responsible government, just and equal laws—the law of England modified only to suit local circumstances—and an honest and capable judiciary.

As regards the "French shore," the facts are unique from whatever point of view they may be regarded. On the one hand, the transient or migratory fisherman from England, to whose case, and to whose case alone, the old treaties were intended to apply, has long ago entirely disappeared. On the other hand, in spite of the overshadowing and adverse influence of these old treaties and of their disputed interpretation, and in spite also of the English "policy" already referred to, settlement by British subjects has taken place, and population has grown up over the whole extent of coast covered by these treaties. At first this settlement or occupation was regarded by the English Government, as well as by the French, as merely that of "squatters;" their possession of the land was mildly "protested" against by the French from time to time, and that protest they still continue formally to assert under their interpretation of the treaties. For many years the status or position of these settlers, even as British subjects, was of the most vague and uncertain character. It was doubtful as to how far they were supposed to enjoy the most ordinary natural rights, or to be amenable to the most ordinary duties of British subjects, and still more doubtful how far they were subject to the local laws of the colony. The most common and rudimentary conditions of civilisation—we may almost say of life itself—did not, even in name, exist in their case. They did not contribute to the ordinary public revenues, the revenue or customs laws not being made applicable to that part of the colony.

There were no courts or tribunals of any kind for the administration of justice—no magistrates, no police, none of the outward forms of authority or government of any kind. The people were unrepresented in the Legislature of the colony, and received no share or portion of the public moneys for public purposes of any kind. In point of fact they were regarded as being, and for all practical purposes they were, outside of the pale or limits of law, order, or government of any kind. The chief subject of dispute, viz., that of English and French fishery rights, being dealt with, or supposed so to be, from time to time by the British naval officers sent to “protect the fisheries,” as the phrase is, the question of the jurisdiction of the Legislature and of the courts of the colony over the people inhabiting the “French shore” was but seldom raised or considered.

But, amid all this doubt and uncertainty, a settled British population was permitted to grow up, and for this permission, and the anachronism to which it has led, and which is every day becoming more and more intensified, responsibility and blame must lie somewhere. The natural resources both of land and sea attracted the enterprise of emigrants from different countries; and the present population of the “French shore” consists of the descendants of original settlers from England, and from Cape Breton, Nova Scotia, gradually augmented by contributions from other parts of the colony of Newfoundland. Of late years trade and commerce on those parts of the coast have advanced with increasing rapidity. New branches of industry are being started, and regular trade with the “French shore” is now a well-established and recognised fact. The regular trips of the colonial mail and passenger steamers, subsidised by the Government, are now extended to these parts of the coast, and during the summer months a large portion of the same coast is regularly visited by a steamer conveying mails, passengers, and freight to and from Halifax and other ports in the Dominion of Canada, under subsidies from the Dominion and Newfoundland Governments.

OLD CLAIMS STILL ASSERTED.

It is most important to bear in mind that, side by side with these changing facts and conditions, with the disappearance of the floating English fisherman, and the settlement in his place of

a fixed population, carrying on agriculture, lumbering, and fishing, these old treaties have continued in force, and under them the French have continued to assert, and still assert, their claims to an "exclusive" right of fishery in the waters and a right to occupy the soil, which, though not nominally an exclusive ownership, yet virtually and practically amounts to the same thing, inasmuch as it denies to our people the right permanently or even temporarily to occupy one foot of land for any purpose whatever, on the ground that such occupation may "interrupt" or interfere with their rights of fishery. According to their contention, every house or other building erected by our people within half a mile of the shore, every foot of land cultivated or otherwise occupied, every foot of road built—in brief, every ordinary act of necessary daily recurrence in the life of every inhabitant, is *ipso facto* a violation of the treaty rights of the French, and has only been permitted by them under protest.

We have stated that these claims on the part of the French, outrageous in their operation and effect as they are, have been strongly and consistently resisted by Imperial statesmen as unwarranted by the terms of the treaties. But we have also stated that this resistance of French claims has been *on paper* only, and we shall see hereafter to what extent they have been practically conceded by the "authorities" upon whom the administration of the treaties has devolved.

OLD POLICY OF BRITISH GOVERNMENTS.

In connection with these facts of history, we consider it important here to consider the "policy" or method of dealing with these facts adopted by successive Imperial Governments. We consider this inquiry most important, because we believe that policy to have been unwise, and if not the principal, at least a very potent cause of the magnitude of the difficulties which have arisen in connection with this question, and are now so acute. The inquiry is also important inasmuch as a correct appreciation of the causes of the troubles may at least suggest the direction in which to look for an appropriate remedy.

The "policy" by which, until within a comparatively recent period, the Imperial Government was guided in all its relations with the so-called "French shore" of Newfoundland was that of hindering and discouraging by every means short of express

prohibition the settlement of population and the establishment of law and order. Although that part of the colony always has been included in the terms of the commission to the Governor, and therefore strictly within the "jurisdiction" of the Colonial Government, yet this jurisdiction was for many years, and for all practical purposes, a mere fiction; and nothing bearing the semblance of government, control, or authority in that part of the colony, that could possibly be prevented, was done or permitted. This "policy" was pursued in view of, or in deference to, French treaty rights, or rather claims, which, while the French construction of the treaties was disputed by the British authorities on paper, were nevertheless regarded as an obstacle, the removal of which was either impossible or inexpedient, in the way of colonisation or settlement by British subjects. For many years, therefore, after settlement had taken place and population had grown up, and after the rest of the colony was in the full enjoyment of all the advantages of established law, order, government, and even of responsible government, the "French shore" was left, so far as its British residents were concerned, in a condition of virtual anarchy. We have already stated the facts, and need not repeat them here. Our present object is simply to point out that the semi-barbarism in which the residents of the "French shore" lived for so many years was deliberately permitted or accepted as an inexorable necessity from which there was no escape, and that it was a fixed and well-understood "policy," by which Imperial direction or control of matters in Newfoundland was guided, simply to leave the people of that part of the colony to take their chances of a condition of anarchy among themselves, and of the consequences of their conflicts with the French over their fishery disputes. In the light of present experience, the question suggests itself whether it would not have been more just and beneficial to the colonists, and at the same time have facilitated a settlement of differences with the French, if this policy had been carried a little farther, and the colonists had been plainly told that settlement upon that part of the coast under existing relations with the French was impossible and must be entirely prohibited.

NEW POLICY OF BRITISH GOVERNMENTS.

In compliance with the urgent demands of the colonists,

and with the best intentions toward them, a change of Imperial policy took place. In view of the position taken by successive English statesmen against the claims of the French to an exclusive right, either maritime or territorial, there appeared to be no sufficient reason for denying to the colonists on the parts of the coast in question the ordinary rights, privileges, and protection of British subjects. Accordingly a line of policy towards the colonists was adopted which might have been expressed, as coming from the Imperial Government, in something like the following terms:—"We recognise that you are British subjects, a settled population, in a British colony, enjoying the full measure of free and British institutions. Except in so far as they may be limited or abridged by the terms of the treaties with the French, your status as colonists, and as British subjects, your rights of personal liberty and of property, your claim to the enjoyment of all the benefits and advantages of law, order, and civilisation, are as strong and as clear as those of your fellow-colonists in other parts of the island. These rights, privileges, benefits, and advantages shall be accorded and secured to you. As to the limitation or abridgment of those rights under the treaties with the French, we refer you to the despatches of our Foreign Ministers, and the opinions of our law officers. We have contended, and we shall maintain, that the treaties confer upon the French no such rights as they claim; that neither on the land nor sea are their rights 'exclusive' as against you; that, although they have the right to catch fish in our waters, and to dry their fish on the shore, yet at this point their rights end, and at the very utmost, so long as they are not actually interfered with or interrupted by you in the *bona fide* exercise of these rights, your rights, the rights of all British subjects, to use and occupy both the sea and land for any purpose whatever are absolute, unqualified, and unlimited."

It is true that the change of "policy" which such words as these import was not brought about suddenly—the change was somewhat slow, but on that very account was considered as all the more "sure." One after another the colony was permitted to establish upon the once-called "French shore" the institutions of full and complete government and authority. The revenue laws were extended so as expressly to apply to parts of the colony

“in question.” Customs officers were appointed to collect the revenues; magistrates and police were appointed to administer justice, under the express supervision and approval of the Imperial authorities; court houses were erected; grants from the general revenues were made for roads and other public improvements. Next, as a full measure of recognition of the right of the colony to govern that portion of it in the fullest sense, representation was granted to it in the local Legislature. And, lastly, as if specially to assert to the French that their “claim” to an exclusive right of possession was denied, authority was given to the Governor and the local Government to issue grants of land, to put an end to the uncertainties and difficulties of “squatters’” title, and to give instead a good and valid title from the Crown, “subject to French treaty rights.” This limitation, under the construction of the treaties contended for by the British authorities, would virtually mean nothing, and therefore be no drawback to the title in places where the French had never carried on a fishery or had ceased to do so; and this assurance of a title from the Crown to land, and all rights of property usually appurtenant thereto, was regarded as the crowning act, completing the full measure of British freedom and citizenship conferred upon that part of the colony and its people.

In relation to the change which had thus apparently taken place in Imperial “policy” in relation to these questions, our most able living writer upon Newfoundland, the Rev. Moses Harvey, in a book published in 1883 spoke in the following hopeful strain:—

“England, while maintaining that her subjects have a right “to fish concurrently with the French in these waters, has “always held this right in abeyance, and discouraged the “exercise of it; and, until 1881, refused to recognise settlers on “that portion of the coast as subjects entitled to the protection “of law and representation in the local Legislature. Happily this “policy is now reversed. Territorial jurisdiction over the whole “island is conceded to the Government of Newfoundland; the “power of making land grants and issuing mining licences is “accorded, and representation in the local Legislature is secured, “the French fishery rights being, of course, strictly recognised. “It now remains for diplomacy to close, in an equally satisfactory

“manner, the conflicting claims to exclusive and concurrent rights of fishing.” These expectations were the natural effect of the promises or assurances implied in the successive concessions to colonial demands for the rights and privileges of ordinary government and citizenship on the parts of the coast in question. How utterly these expectations have failed of realisation, how worthless for all practical or useful purposes these concessions of the outward form and appearance of government, law, order, and civilisation have proved, how the colony has been misled by them, and how much the past condition of things has been made worse on account of the raising of new hopes and expectations, only doomed to disappointment, we are now unfortunately too well aware.

In order to understand and account for the complete failure of this new “policy” to effect any improvement in the condition of the colonists, or any solution of the difficulties with the French, it is necessary here to explain to those who have not studied the question that this “policy” did not touch or deal with the question of French treaty rights at all. The treaties were made between the Imperial Governments of England and France, and the colonists or the Colonial Government, the Colonial Legislature or the Colonial Courts, had no part in the making of them, or in the interpretation or enforcement of them. If a quarrel arises between a British subject and a Frenchman, either in relation to the prosecution of the fishery or the occupation of the land, and the Frenchman commits an offence against the British subject, no matter how great or how flagrant it may be, the Colonial Courts, the Colonial Legislature, or the Colonial Government can afford him no redress, no remedy, no help whatever. His only hope of redress lies in an appeal to the Imperial Government. The question being an international one, there is no legal or judicial tribunal for the determination of the question in dispute, and unless the French authorities admit (which they never do) that the Frenchman has been in the wrong, and agree to make compensation, the chances of redress for the British subject are dependent upon what the Imperial authorities may consider to be their duty, due regard being had for the just claims of the injured colonist on the one hand, and for the “exigencies” arising out of relations with the French nation on the other.

INTOLERABLE METHODS EMPLOYED.

But the methods or machinery employed for the enforcement of the observance of these treaties and the "protection" of British subjects, and the practical working of that machinery, are, and must in the very nature of things be, intolerable to the colonists. The duty of "protecting" British subjects in the exercise of their rights against unlawful acts on the part of the French is entrusted to British officers in command of war-ships, usually three, which are annually sent to Newfoundland for that purpose. One of these ships is usually a frigate, the other two of a smaller class, and the officers in command of the latter (usually holding the rank of lieutenant) act under the direction of the captain of the frigate, who annually receives his "instructions" for himself and his subordinate commanders from the Admiralty Department in England. Who prepare these instructions, by what authority, under whose advice, or under what law, or by what canon of construction of the treaties that law is laid down, is one of those official mysteries which it has never yet been vouchsafed to the colonist, no matter how important, how responsible, or how confidential his position in the administration of public affairs in the colony may be, to penetrate. Of these "instructions," final, conclusive, and absolute as they are, the colonists can only judge, as they do of other things, by their "fruits." From these fruits—from the acts which are done and permitted by the British officers, sustained as they invariably are by the "departments" of State—we can only conclude that as an exposition or statement of the rights, privileges, and duties of British subjects the "instructions" are in plain, simple, direct, and unqualified antagonism to the positive and oft-repeated declarations of British law officers, statesmen, diplomatists, politicians, and other authorities to whom we have already referred as sustaining our contentions against the unwarranted pretensions of the French.

Whether we regard this so-called "law" by which we are governed, or the methods by which it is administered, they are, either separately or together, in such direct and flagrant violation of every principle of British right and British justice, that their continuance in full force in the present age can only be accounted for by recourse to the simple explanation that "might is right,"

—by the mere fact of absolute, omnipotent, sovereign power on the one hand dealing with weakness on the other.

As to the law itself, to which the colonist and his actions are subject in the most vital and fundamental concerns of everyday life, and under which it is determined whether his dearest and commonest rights of property and even of personal liberty are affected or limited, or altogether taken away, not only is the law nowhere declared or defined, but it is hidden—stowed away, so to speak—in official instructions to a naval officer, to which no one else is permitted access, even for the purpose of judging whether these instructions are in themselves authorised or warranted, or, on the contrary, as they would appear to be, *ultra vires*,—not only is that law not made known to or ascertainable by the subject, but, worse still, the subject has been instructed and led to believe that it is the direct opposite of that which the naval officer, under his instructions, as a rule, declares and puts into force.

Next, as to the tribunal, the court, or the authority by which the law is administered. Without the slightest want of due respect for these gentlemen, for whom in their proper sphere we have the highest esteem, and of whose qualifications for their ordinary duties we have not the slightest doubt, we hold that they are not, and ought not to be expected to be, in any degree qualified for the proper discharge of such functions as are imposed upon them in connection with these treaty questions. Their education, training, habits of life, and the nature of their usual and legitimate occupations are entirely incompatible with the acquisition of that knowledge, and the possession of those qualities which are required for the exercise of these purely judicial offices. Such a combination of entirely incongruous powers and duties was never contemplated, and ought never to have been permitted, except to meet some extreme, unforeseen, or temporary exigency.

There is no more reason, no more sense, and no more justification for entrusting to an officer of her Majesty's Navy the determination of the involved and complicated questions of municipal and international law arising out of the disputes between British and French fishermen under these treaties, and vesting in him judicial authority, or even discretion, for dealing with these disputes, than there would be for taking a judge of

the Supreme Court of Judicature from the bench and appointing him to the command of one of her Majesty's war-ships.

“PROTECTION” INEFFICIENT AND UNSUITABLE.

But it is not the mere theoretical or abstract injustice of the absence of any statement of our rights, or of the unsuitability of the tribunal appointed for their enforcement, that constitutes our only or our chief grievance. The practical working of the system of so-called “protection” of the rights of the colonists by British naval officers has been to demonstrate, beyond the possibility of question, that it is utterly inefficient and unsuited for its purpose, that British rights are ruthlessly disregarded and trampled upon, and French aggressions permitted and French demands acceded to, far beyond anything that could be warranted by the most extremely French interpretation of the treaties.

While, no doubt, in some cases unreasonable demands on the part of the French have been resisted, and acts of violence arising out of disputes with the French have been prevented; while, in other words, the naval officers of the two nations have by their presence managed to “keep the peace” in cases where otherwise there would have been trouble; yet it is equally certain that in the majority of cases the peace has been so kept by the sacrifice of the just rights of the British fishermen to the unjust demands of the French, and that in numberless other cases gross wrongs have been inflicted upon our people by French fishermen, by French naval officers, sometimes without, but sometimes with, the sanction of the British officer, and sometimes by the British officer himself at the instance of the French officer. The cases of injustice to our people, or of failure to obtain redress may be roughly classified, and illustrated by an example of each class. The first is that in which the Frenchman, with or without pretended cause, commits an act of violence against a British subject by removing, destroying, or damaging his boat, net, or other fishing gear. The only remedy, as already stated, is an appeal to the Imperial Government, asking them to apply to the French Government for redress. This appeal must be either through the British naval officer, to whom, if he is at hand, the complainant may state his case; or, if he be not at hand, then by communication in writing to the Governor of the colony

for transmission to the Imperial Government. In either case, the process of "circumlocution" through which the complaint or application has to pass before it is finally disposed of, and the delays and difficulties to which it will be subject in its course, are, in nine cases out of ten, of themselves alone sufficient to make the attempt a hopeless one from the outset. If the application is made to the officer in command of one of the ships on the protection duty, the particulars of the case must be reported to the senior officer on the station, by him to the Admiral, by the Admiral to the Admiralty, by the Admiralty to the Foreign Office, by the Foreign Office to the British Minister at Paris, with instructions to submit the matter or present the claim to the French Government. How many stages it may have to pass through in France before a reply is sent to the British Minister we do not pretend to guess, but it will probably have to be referred through the proper department to the senior French naval officer on the station for his report. Whether the claim be admitted or disputed (we have never yet heard of one having been admitted), the reply will have to come back to the complainant through the same route as that by which it went, calling at the same stations on the way. If, there being no British naval officer available to the complainant, he has to send his case through the Governor, the route will be slightly different, but about as long and as circuitous as that by way of the war-ship and the Admiralty. The Governor will forward the case to the Colonial Office, thence it will go to the Foreign Office, thence, probably, to the Admiralty to be referred to the naval officer on the station to see if he has heard anything about the case, and if he has, for his report; thence back to the Foreign Office, thence to the British Minister in Paris, and from him to the French Government. After the same circuit in France as already described, the correspondence will return to England, and thence through the same route to the original complainant; the result being almost to a certainty that under the conflict of statement as regards the facts, and owing to the widely-divergent views entertained by the Governments of England and France respectively as to the rights of the British—or French, as it may be—fishermen, in such cases as that now under consideration—"Her Majesty's Government regret that they are "unable to obtain from the French authorities a recognition of the

“claim put forward by the complainant,” &c., &c., or to that effect. This is not an exaggerated picture of the process through which the most ordinary applications for redress for injuries suffered by a British subject at the hands of a Frenchman arising out of their quarrels over these treaty rights or claims must pass. Looking at the delay and trouble alone attending such a process, need anything further be said to show the hopelessness of such an undertaking as a means of obtaining redress? But when to this delay and difficulty are added, first, the facility on the part of the French of disputing either the facts or the law under the treaties applicable to them; and next, the fact that in any case of dispute between the two nations over the merits of a claim such as we have supposed, the claimant has to ask the Imperial Government, as his only means of redress, to insist upon a satisfaction of his claim, it can at once be seen that practically redress for wrongs inflicted by Frenchmen upon British subjects, under however slim or groundless a pretext of fishery or treaty “rights,” is out of the question.

ANOTHER CLASS OF WRONGS.

Another class of wrongs under which our people suffer, and in which the chances of redress or remedy are even more hopeless, is that in which the French officer in the “protection” service takes it upon himself to decide between the French and English in cases of dispute, and to give effect to his decision by ordering and compelling our people to obey his directions, whatever they may be, in relation to the matter in dispute. A Frenchman is the complainant, a French officer is first judge to pronounce sentence against the Englishman, and next the sheriff to carry the sentence into effect. In many of these cases the decisions and mandates of the French officer are not only unwarranted even by the most extreme French construction of the treaties, but are in defiance of the plainest and simplest rules of justice and common-sense.

We shall give one example of a numerous class of such cases. Certain harbours on the so-called “French shore” are largely resorted to by fishing vessels from other parts of the colony, most of them on their way to the fishing grounds in the Straits of Belle Isle and at Labrador. The visits of the Newfoundland vessels to these harbours are always but tempo-

rary, some of them for the purposes of shelter, others for the purpose of trying their luck on the adjoining fishing grounds, which, it is to be understood, are not in the harbours, but outside of them. There are already a few French fishermen in these harbours, fishing on the adjoining grounds. A conflict might no doubt arise between the French and English fishermen upon the old question of exclusive or concurrent rights of fishing. But this dispute could only arise out of actual or attempted operations on the fishing grounds. While the English vessels are in the harbours, no question as to "interruption" or interference could possibly arise. But it has been the practice for many years past for the French naval officers to enter the harbours in question, and to compel by force, or threats of force, *every British vessel in the port, whether intending to fish in the adjoining "grounds" or not*, to take up their anchors and forthwith leave the port! To describe the French officer as taking upon himself the combined functions of judge, jury, and sheriff would convey the idea of a travesty or burlesque upon the forms of justice; but in this case, the defiance of every principle of law and justice is so flagrant that it does not even admit of the association of the idea of the form or semblance of a legal or judicial proceeding. The right of the Newfoundland fishing vessels to occupy those harbours in the manner described is as clear, as undoubted, and as unqualified as those of the French war-ship; they have never even been formally or seriously questioned. The conduct of the French officer in these cases is utterly without the shadow of a pretext of warrant or justification. But, so far as we know, against these acts, which are of constant and frequent recurrence, there has been no protest or objection on the part of the British officers who are charged with the "protection" of the rights of British subjects under these treaties, and redress for these wrongs has been impossible.

STILL ANOTHER CLASS OF WRONGS.

The next large and important class of cases of wrong and hardship to the colonists are those in which the British officer is actively concerned, and in which redress for wrongs done to the British subject is out of the question. Our object here is, as we have already stated, not to make the British officer either personally or officially the subject of attack or

censure. We have already given reasons why it must be impossible for British subjects to obtain, and therefore useless for them to expect, from a British naval officer, under such circumstances, anything resembling the redress or protection of a court of justice. But whether the fault lies with the British officer, or with the authorities from whom he receives his instructions, or with the inexorable necessities or "exigencies" which control these instructions, the fact is incapable of dispute that the most outrageous and unwarranted demands of the French fishermen and French officers are continually enforced by British officers against our people, and that redress is denied to them in cases in which the French have not merely violated the treaties as interpreted by the British authorities, but have gone beyond any possible justification, even under the most extreme French interpretation. We may take, by way of illustration, a case which occurred in the year 1887, in which two men called Murphy and Andrews were ordered by a British officer to remove their lobster factory at the instance of a French officer. In the correspondence which subsequently took place between the English and French Governments, the former most firmly and clearly contended that the English factory was not prohibited by the treaty; that it was not an interruption of any "fishery" to which the French had rights under the treaty. But although it was contended, as against the French, that the removal of the factory was not called for by the treaty, and therefore not necessary; yet, in reply to Murphy and Andrews' claim for compensation, the action of the British officer was upheld, on the ground that a certain amount of discretion was entrusted to him, &c. This case will be referred to at greater length hereafter, in connection with the "lobster question," but it serves here as a good example of the manner in which British naval officers in many cases administer the law and "protect" the British fishermen against the unrighteous demands and acts of the French.

WHERE THE BLAME LIES.

We repeat here that our object in now calling attention to the shortcomings, if we may so term them, of the British naval officer—the only tribunal for the enforcement of the rights and the redress of the wrongs of British subjects—is not for the

purpose of censure as against him. On the contrary, it is one of the strongest parts of our case, that the exigencies under which his authority and instructions are given him are plainly and undoubtedly such as to make full justice or redress to the colonists under the circumstances impossible, and therefore no part of his duty. His instructions are, in effect: "Keep the peace between the English and French. 'Protect' the English, *if you can*; go as far as possible in the assertion of their rights; but, you must draw the line somewhere, and draw it at that point, wherever it may be, where danger of serious trouble with the French begins. And do not go beyond that limit, even though your holding back may involve hardship or injustice to the colonist, for if we are driven to choose between offending the French and neglecting to care for the colonist, the colonist must go to the wall." We are not now misstating or overstating the case, or stating it for the first time. It is the same old story, and its very age and our familiarity with it are the reasons why it is received with so much indifference.

TERRITORIAL "RIGHTS."

The cases of hardship and injustice just now described are for the most part those which arise out of disputes in relation to fishery rights. As regards the other important matter—that of territorial rights—the questions at issue under these treaties do not present themselves in so acute a form, and do not from time to time press for immediate solution or action; and for this reason the whole question, vast in its importance as it is to the colonists, is, for the purposes of practically dealing with it, kept out of sight. But the conditions which the disputes and uncertainties in connection with this question have created, not only as regards the particular parts of the coast "in question," but as affecting the whole colony and its future welfare and prospects, are a greater reproach, and call more imperatively for some solution of the difficulty, than even the disputes relating to the fisheries.

We must again revert to the history of the origin of the treaty for an explanation of so outrageous an anomaly, and so utterly impracticable an arrangement. At the time of the making of the treaties there was no colonist in existence in Newfoundland—no settled population contemplated; but, on the

contrary, settlement was forbidden by law. The provisions of the treaties in relation to the land were intended simply and only as an arrangement for the temporary accommodation of the fishermen of the two nations who resorted to Newfoundland during the summer season and left it in the fall. No grant or permanent title, or right of occupation, even from one year to another, was given to the British fishermen; the choice of site, or "room" for landing and curing the fish, or, as it is conventionally termed in Newfoundland up to to-day, carrying on the "voyage," was allotted to the vessels in turn of arrival at each port—in short, the very notion of ownership or fixity of tenure was entirely discountenanced. In view of these facts, and this explanation of the origin of the treaties, it is at once obvious how utterly futile and impracticable it is to attempt to adapt the terms of such an arrangement to the ordinary conditions of a settled population. Practically the present position of the case is this. The British subject, claiming under the Crown, in which is the sovereignty of the colony and of the soil, has in the first place, and generally, the right to use and occupy, and does use and occupy, the land, for all and every purpose. But this right, whether possessed by the British subject as a "squatter," or under a grant from the Crown, is subject to French treaty rights. These rights are—"to catch fish, and to dry them on land;" but "it shall not be lawful for the subjects of France to . . . erect any buildings there, besides stages made of boards, and huts necessary and usual for drying of fish." But as to whether or not there was to be any limit to the Frenchman's right to select the place that he wished to use,—whether he was, on the one hand, to be confined to such places as were really and *bona fide* necessary for him for the prosecution of his fishery, or whether, on the other, he has the right from one year to another, or from week to week, or from day to day, to wander over the whole "French shore," and at his own absolute and uncontrolled will to demand the right to use any place that he may choose to select for the purposes of his fishery,—upon this question the terms of the treaty are, for the reasons already given, indefinite, and over that question the battle has been going on ever since the treaties were made.

PRACTICAL ISSUES INVOLVED.

It is impossible to over-state or over-estimate the importance or magnitude of the question, and of the practical issues involved in it. It goes to the very root of the title to the whole of the territory for half a mile from the shore inland extending over about 700 miles of coast line. Not a house can be built, not a road can be made, not the simplest act of occupation or ownership can be done upon or in relation to a single square foot of land over this vast area, but "subject" to the doubt as to the French treaty rights applicable to the foot of land in question. The changes which have taken place as regards the French occupation of the coast, while they have not solved or diminished the doubts, have intensified the anomaly, and aggravated the mischiefs and annoyance to the colonists, until it has at last reached the utmost limits of endurance. The contention on the part of the colonist is that the French "rights" to the use or occupation of the land are limited to their *bona fide* and actual requirements—that in places where they are not fishing, where they have never fished or have ceased to fish, or never intend or are never likely to fish, there is, or should be, no limitation of the Englishman's absolute right of property. The Frenchman contends that he has a right from one year to another to fish wherever he pleases; that the whole coast—both sea and land—is always open to him to select from; and that there is no limit as to his right to choose. He protests, and continues to protest, against all permanent occupation of any part of the coast by British subjects, for any purpose whatever, as a possible interruption to him in the exercise of his treaty rights. There is no legal tribunal for the determination of the question, and neither nation will accept the other's interpretation of the treaties. The "protection" service, under the British and French naval officers, is the only tribunal which pretends to deal with the question, and their functions, as already shown, are practically confined to keeping the peace for the time being, and principally in relation to fishery disputes. The whole question as to British rights of ownership of the land is as much disputed as ever; the evil has been further aggravated by the changes of which we have already spoken in Imperial "policy," under which the colonists have recently been accorded the outward forms of government, law and order, representation, and all the other "institutions" per-

taining to free British subjects. These concessions, in connection with non-occupation by the French, have been regarded by the colonists as a clear and undoubted assurance that the "rights" of the French were merely mythical, and of no practical effect; that "subject to French treaty rights," whether in a grant of land, or in any other connection, had no real or practical significance; and that subject only to the French *bona fide* requirements in the very few places where they now carry on the fishery, our people could acquire and maintain the ordinary rights of property on the same footing as their fellow-colonists in other parts of the colony, and like British subjects in other parts of the world. This has turned out to be a complete delusion. The French assert their "claims" as persistently as ever, and no matter how preposterous they may be, the fact remains that these claims are put forward. There is just enough of show of foundation for them, on strictly legal or technical grounds, to throw a doubt or shadow over the title, or the value of the title, to every bit of land upon the whole of the coast in question. There is no security of title or of right of occupation or possession of any sort. The practical effect of the existence of these French claims has been an insuperable obstacle to development or improvement of any kind, or even of settlement itself—the "locking up," so to speak, of the whole of that part of the colony, which is known to be rich in agricultural, lumbering, and mineral wealth. By "that part of the colony" we mean not only the portion strictly within the French treaty limits, which extend to half a mile inland from the shore, but also the whole of the interior in the vicinity of the coast, or, roughly speaking, about one-third of the entire superficial area of the island.

Capitalists have been ready to invest in large and *bona fide* operations in the development of these resources, but French "treaty rights" have been in every case an insuperable difficulty, and the enterprise has been abandoned as hopeless. To such preposterous lengths, in the hindrance of the exercise of the rights of sovereignty and ownership of the soil, have these so-called rights of the French been asserted and enforced against our people, and even the Crown itself, that a project for the building of a railway across the colony has actually been forbidden by the Imperial Government because the terminus at George's

Bay, on the west coast, was within the French treaty limits, and French treaty rights might possibly be "affected." The French treaty rights in this case, at the utmost, would have been a possible claim which a French fisherman might set up to dry his fish on the spot designated for the railway terminus, the real pecuniary value of which right, at the outside, would not be five pounds a year, if a *bona fide* right really required to be exercised; but, as a matter of fact, no French fishermen have fished or occupied the soil at or near the particular spot in question for many years, and to a certainty they will never again think of using it!

It is needless to comment or enlarge upon the outrage and wrong which are involved in such a condition of facts; upon the folly and weakness of a policy, or want of a policy, which tolerates and perpetuates such conditions by makeshift and patchwork "arrangements," made with a view only to the immediate necessity for keeping the peace between quarrelling fishermen, and ignoring the paramount and vital interests of the whole colony, as involved in the exercise of the sovereignty and ownership of the soil and the development of its territorial resources, which are rendered impossible as long as either the letter or spirit of these old treaties is preserved. Nor can it be wondered at if the colonists, who are compelled to submit to the hardships and deprivation thus entailed upon them,—who are able to understand what are the natural and inherent rights of British subjects, and the necessary conditions of life itself, and have been led to believe and expect that they possess these rights and live under these conditions, but who are unable even to understand by what principle, either of reason or justice, these rights and conditions should be denied them,—it cannot, we say, be wondered at if the resentment and despair of the colonists at their position and prospects should drive them to the use of words and the commission of acts which, though illegal, are believed to be the only means of redress for the wrongs and injustice under which they suffer.

In relation to these treaty "rights" and claims of the French, territorial and maritime, the opinions and feelings of the colonists are set forth in the following resolution passed at the mass meeting in St. John's:—

"Whereas it is apparent that development of the great natural "internal resources of this colony is necessary to provide its

“inhabitants with the means of livelihood, and to stay the tide of
“emigration from our shores ;

“*And whereas* railways projected in order to promote the
“development of these resources, and necessary thereto, will
“entail great burdens upon the people of the colony ;

“*And whereas* that portion of the island upon the coast of
“which the French have certain fishery rights is rich in
“agricultural, mining, and lumbering capabilities ;

“*And whereas* the rights and claims of the French upon that
“coast are enforced in such manner as to prevent the development
“of those great resources by the inhabitants of the colony, grants
“of land and minerals being given ‘subject to French treaty
“rights,’ whereby capitalists are prevented from investing ;

“*And whereas* the presence of French fishermen upon our
“coast, and their denial of our concurrent right to fish for cod,
“and of our exclusive right to take lobsters, give cause for daily
“quarrels in the fishing season, and much oppress our fishermen ;

“*And whereas* the treaties under which the French have
“rights and set up claims were undeniably framed, more than a
“century ago, solely with a view to the exigencies of the Kingdom
“of Great Britain and Ireland, and without regard to the condition
“of affairs which time has brought about in this colony :

“*Be it therefore Resolved*,—That it is absolutely necessary to
“the prosperity of the inhabitants of this colony that the last
“vestige of French rights shall be removed ;

“That it is the imperative duty of the British Government to
“relieve us of the burden placed upon us by the same agency so
“many years ago, and under which we have so long suffered ;

“That no arbitration or other arrangement should be entered
“into between the British Government and the Government of
“France which does not have as a basis that French claims to
“territorial and maritime rights in this colony are to be totally
“extinguished ;

“And that the Legislature and the Government of this colony
“should never consent to the commencement, prosecution, or
“conclusion of any arrangement which does not have the
“aforesaid condition as the essential preliminary.”

CHAPTER III.

THE "LOBSTER" QUESTION.

RECENT GROWTH AND INCREASING IMPORTANCE.

The industry of preserving lobsters by canning is of recent growth and increasing importance in Newfoundland. The first exports of canned lobsters from the colony occurred about 1880; but in the succeeding year the value of the exports amounted to \$100,000, and in 1888 to \$385,000, which amount was considerably exceeded in 1889, and it is probable that the value this year will equal \$500,000. It is apparent that, to a people the produce of whose labour is almost wholly exported, and the value of whose total exports does not exceed \$7,000,000, this half a million dollars is of vast importance, and anything which threatens the continuous, unhampered, and profitable pursuit of the lobster industry is therefore a serious matter to the people of Newfoundland. The first factory erected upon the coasts upon which the French have treaty rights was established in 1882, and another was started in 1883. It was in connection with the latter—four years after its erection—that the first difficulty with the French concerning the lobster industry arose, and then the only contention made by the French was to the effect that *the prosecution of the lobster canning industry by British subjects was an interference with their treaty right to freedom from interruption while prosecuting their fishery*, whereby they evidently meant the *cod* fishery then engaged in upon some parts of the coast by a few French vessels. It is worthy of note that so late as 1887, when the difficulty at Port Saunders arose, the French made no claim to any right, much less an *exclusive* right, to *take* lobsters, and none to erect factories for canning purposes, which pretensions they have since urged most vehemently.

THE FIRST DIFFICULTIES.

The occurrences at Port Saunders, involving as they do the worst features of the anomalous condition of affairs upon the

west coast of Newfoundland, cannot be more clearly stated than they have been in the memorial to the Secretary of State made by Messrs. Forrest & Shearer in 1889, a copy of which will be found in Appendix I.

Briefly stated, these facts were as follows:—In 1882 Messrs. Forrest & Shearer erected a factory at St. Barbe; in 1883, another at Port Saunders; and in 1889, still another at John Meagher's Cove. There were no houses or buildings of any kind at Port Saunders in 1883, and neither French nor English fishermen had been in the habit of fishing or drying fish there for many years prior to the erection of the factory. From the date of the establishment of the factory until the autumn of 1887 there was no interference with it or protest against its operations by the French naval officers, but in August of the latter year the French war-ship "Pearl" visited Port Saunders, and destroyed lobster traps and buoys belonging to Messrs. Forrest & Shearer without giving them any warning of their intention, or formally complaining of their operations.

In June, 1887, the commander of the British war-ship "Bullfrog" notified the manager of the factory that the commander of the French naval division complained that the operations of the factory interfered with the "enjoyment" of the fishing rights of certain French fishermen, and he therefore ordered the manager to desist from setting traps for lobsters within certain specified limits. The complaint appears to have been an unfounded one, since the French had not previously fished in the neighbourhood of Port Saunders; and that it was made vexatiously is proven by the fact that during the four previous years no complaint had been made against the operations of the factory.

The action of the commander of the "Bullfrog" in complying with the representation of the French commander without due inquiry into the facts, or without regard to them, is an apt illustration of one cause of complaint in Newfoundland, where the naval officers, indeed, are excused upon the ground of obedience to orders, but where the supineness of the British Government is disadvantageously compared to the spirited conduct of the French authorities, and where it is felt that the rights of British subjects are less regarded by the British Government than the expediency of keeping the peace.

On the 24th of September, 1887, the commander of the

“Bullfrog” sent to the manager of the factory at Port Saunders a letter so remarkable that we quote it here in full:—

“‘BULLFROG,’ AT PORT SAUNDERS,
“24th September, 1887.

“Having received from Captain Humann, Senior French Naval Officer, Newfoundland, a notification to the effect that the fishing station of Keppel Island and Port Saunders has been allotted next year to one of their ships, and that the factory you work in Port Saunders will interfere very much with their fishing if carried on as at present, I have to inform you that you will continue working your factory next season at great risk, for on any reasonable complaint on the part of the French of your operations interfering with the full enjoyment of their fishing rights, your factory will be suppressed.

(Signed)

“J. MASTERMAN,

“*Lieutenant and Commander.*

“Mr. Shearer, Port Saunders.”

The object of the French commander in notifying the commander of the “Bullfrog” that French fishermen would use Port Saunders was unmistakably to hamper the operations of the factory, and, therefore, the British commander should have resisted instead of abetting. But he, on the contrary, plainly intimated that if any complaints were made in 1888 by the French he would interfere with the factory’s operations. What value can be placed even upon the exclusive right of British subjects to take and can lobsters if it can be interfered with even upon an intimation of the French of their intention to do something or other at some future time?

In June, 1888, the captain of the British war-ship “Emerald,” who was also the senior officer upon the station, formally notified the owners of the Port Saunders factory that they would not be allowed to take lobsters within certain limits, because “*complaints* have been made by certain French captains at Port-au-Choix, through Captain Humann, chief of the French naval division in Newfoundland, that lobster trawls set by fishermen on certain parts of the coast interfere with their fishing operations.”

Examine this typical incident carefully. The British captain

does not even allege an actual "interruption" or "interference" with French fishing. He alleges "complaints" only—complaints not made to him, but to the French commander, if to anybody, and into the merits of which he had apparently not inquired. There is no doubt that the complaints were frivolous. The French thereby artfully exclude the employed of the factory from taking lobsters for a considerable distance on either side of the factory, knowing full well that they could not profitably be brought from great distances. An indication of the grasping nature of the French, and of the compliant character of British conduct, will be found in a comparison of the letter from Captain Hammond, dated 19th June, 1888, and from Captain Campbell, dated 1st August, 1888, in the former of which the factory fishermen are forbidden to set traps from Two Hills Point to the *south-west* point of Garganelle Cove, and in the latter the limits being made to include the cove itself.

In June, 1889, Captain and Senior Officer Sir Baldwin Walker, of H.M.S. "Emerald," renewed the prohibition as to the limits within which the factory *employés* at Port Saunders were not to take lobsters, and he also prescribed limits for the factory at John Meagher's Cove.

Both orders were couched in the most objectionable language. In the order regarding Port Saunders, Captain Walker says:—
 "In view of the complaints *that have been made in former years*
 "of the interruption to French fishing operations by lobster
 "trawls set by your fishermen, I deem it my duty to forbid the
 "setting of any lobster trawls on that portion of the coast
 "between the first point of rocks at Two Hills Point and Gar-
 "ganelle Cove." In the order regarding John Meagher's Cove, Captain Walker says:—
 "As I consider it desirable to *prevent*
 "any cause for *complaint* on the part of the French fishermen,
 "it is my direction that the lobster trawls of the fishermen
 "employed by your factory are not to be set to the southward of
 "a line drawn from your factory to the extreme point of White
 "Island." The treaties say that the British shall not "interrupt" the French by their competition, and, waiving here all question as to what may constitute such an actual interruption as the treaties refer to, it is apparent that neither of Captain Walker's letters was based upon an interruption of any character, but merely upon his desire to prevent possible trouble. He was only

following in the footsteps of his predecessors in issuing such orders, and there is no reason to doubt that his conduct was in strict accordance with his instructions.

On the 17th June, 1889, the French war-ship "Bison" destroyed several traps at Port Saunders, but, though her crew desisted from their work of demolition when H.M.S. "Emerald" opportunely hove in sight, no reparation was ever demanded by the British Government. In July, 1889, the French warship "Drac" destroyed five hundred and five lobster traps at John Meagher's Cove, but no claim was ever made for compensation by the British Government upon the Government of France, though it is indisputable that, no matter what the merits of the disputes between French and British upon the construction of the treaties, the French have no right, *and should not be permitted*, to destroy British property in British waters. It may be mentioned of this case, that though the British Government has been memorialised concerning it, though the memorialists have undoubtedly suffered great loss by reason of French aggressions, and though the main facts are not disputed, the British Government have done literally nothing concerning it, so far as can be ascertained, beyond promising to inquire into it.

FRENCH CLAIMS ADVANCED.

It was in connection with the removal of a factory established at a place called Hauling Point, upon the north-east coast of Newfoundland, that the French first laid claim to a right to take lobsters and to erect factories wherein to can or preserve them. A firm called Murphy & Andrews erected a factory there in June, 1888, the inhabitants having made arrangements in the previous autumn to catch lobsters for them. A few days after the arrival of Messrs. Murphy & Andrews, a large number of Frenchmen also arrived at the same place, although for forty years previously no French fishermen had carried on any kind of fishery there. The factory was partially erected when the commander of the French war-ship "Drac" informed Messrs. Murphy & Andrews that he would not allow them to take lobsters in the locality, and that "*the French Government had conceded to the French company there represented an exclusive right to fish for lobsters in that locality for five years.*" At this juncture the British war-ship "Forward," Commander Bearcroft, appeared upon the scene, and

ordered Messrs. Murphy & Andrews to *take down their factory*, remaining till the order was obeyed. Upon its site another factory was erected by the French, but it was subsequently abandoned. After its erection the Government of Newfoundland attempted to collect duties upon the materials imported to erect and operate the factory, but the French refused to pay, claiming that under the treaties they had the right to import all they needed in the prosecution of their fishery rights. The facts of this case were drawn to the attention of the British Government, in part, by the then Governor of the colony, and also by an Address from the Legislature of Newfoundland, printed as Appendix E.

The satisfaction vouchsafed will be ascertained by perusal of a despatch from the Secretary of State, printed as Appendix F. In brief, that despatch meant, that, though Her Majesty's Government denied that the French had any right to take lobsters and erect factories, yet, as the declaration of 1783 promised to remove "fixed settlements" which should be formed upon the coasts over which the French had treaty rights, the removal of the factory was a justifiable action. The despatch was misleading, and omitted to notice several most important points. In the first place, a factory is not a "settlement" within the meaning of the treaties. In the second place, the declaration of 1783 did not ordain the removal of settlements to gratify the mere caprice of the French, but for the purpose of preventing British subjects "from *interrupting* in any manner, *by their competition*, the "fishery of the French." Now, the factory of Messrs. Murphy & Andrews was not "interrupting" the French "by their competition," because (1) it had not commenced operations when its removal was enforced; (2) the French were not, and had not been; carrying on a fishery to be interrupted; and (3) the lobster catching which the French proposed to carry on is held by the British Government not to be a "fishery" at all, and consequently not free under the treaty from interruption. Messrs. Murphy & Andrews, in erecting a factory in 1888, were only doing as Messrs. Forrest & Shearer had done in 1882 and 1883 without let or hindrance by either French or English. Nothing was said about the fact that the French had *exercised* a territorial right not conferred by treaty in erecting a factory upon the soil of Newfoundland. Nothing was said of their *exercise*

of a right to catch lobsters, and to dispose of that right for a term of years. Nothing was said of the significant fact that the commander of a British war-ship, after hearing of this claim of new territorial and maritime rights by the French, had enforced their contention by his orders to Messrs. Murphy & Andrews. Despite all these facts, the unfortunate owners of the Hauling Point factory have not to this day received a single dollar as compensation for the loss caused to them by the orders of a British naval officer.

From the foregoing it will be seen that in 1887 the French only denied the right of British subjects to interrupt the French fishery by taking lobsters and erecting factories, but that in 1888 they advanced a claim to an exclusive right on their own part to erect factories and take lobsters. On the other hand, it will be perceived that from 1882 to 1887 the French and British both acted upon the supposition that the factories carried on by British subjects were not a breach of French treaty rights; but that in 1887 the French claimed, and British naval officers admitted, that the taking of lobsters so as to interrupt the French fishery was not permissible, which was in itself an admission by both French and British officers that the taking of lobsters so as not to interrupt the French fishery, and the erection and operation of factories, were not breaches of the treaties. But, in 1888, the French advanced the preposterous claim of a right to erect factories and take lobsters, which claim a British officer virtually admitted, though in 1889 the British Government declared that they did not admit the legality of either of these claims. So the dispute stood until the end of 1889, up to which time the British had erected about forty factories upon the coasts on which the French have treaty rights, the French about four.

THE "MODUS VIVENDI" ANNOUNCED.

The Legislature of Newfoundland assembled for the dispatch of business on the 6th day of March, 1890, and the Governor's Speech, delivered on the 7th day of the same month, contained the following paragraph:—

“The Right Hon. the Secretary of State for the Colonies has acquainted me that negotiations are in progress between the Governments of Great Britain and France, for a settlement

“of questions that have arisen with regard to the right of the subjects of the two nations respectively to catch and preserve lobsters on that part of our coast where the French have a concurrent right of fishery, and it is hoped that a provisional arrangement for the present season may be arrived at, which I trust may pave the way to a satisfactory settlement of this difficulty.”

Judge, then, of the surprise and indignation felt and expressed when, upon the 14th day of March, one week after its opening, the Legislature received the following message from the Governor :—

“The Governor herewith sends a telegram received from the Right Honourable Secretary of State for the Colonies, received on the 12th day of March present, relative to the *modus vivendi* entered into between the British and French Governments, relative to the establishment of lobster factories on the coast of Newfoundland, where the French enjoy rights of fishing conferred by treaties.

“Following is text of *modus vivendi* as agreed to :—

“The question of principle and of respective rights being entirely reserved on both sides, the British and French Governments agree that the *status quo ante* shall be maintained during the ensuing season, on the following basis :—

“Without France or Great Britain demanding at once a new examination of the legality of the installation of British or French lobster factories on the coast of Newfoundland where the French enjoy rights of fishing conferred by the treaties, it is understood that there shall be no modifications in the position occupied by the establishments of either country on the 1st July, 1889; except that a subject of either nation may remove any such establishment to any spot on which the commanders of the two naval stations shall have previously agreed.

“No lobster fisheries which were not in operation on the 1st July, 1889, shall be permitted, unless by joint consent of the commanders of British and French naval stations.

“In consideration of each new lobster fishery so permitted, it shall be open to the fishermen of the other country to establish a new lobster fishery on some spot to be similarly settled by joint agreement between the naval commanders.

“ Whenever any case of competition with respect to a lobster fishery arises, the commanders shall proceed on the spot to a provisional delimitation, having regard to the situation acquired by the two parties.

“ N.B.—It is well understood that this arrangement is quite provisional, and shall only hold good for the fishing season which is about to open.

“ GOVERNMENT HOUSE, *March 14th, 1890.*”

THE LEGISLATURE'S PROTEST.

Immediately upon the receipt of the Governor's message above referred to the Legislature *unanimously* adopted the following resolution:—

“ *Resolved*,—That, referring to the assurances of Her Majesty's Government that the fishing rights of Her Majesty's subjects in Newfoundland should never be interfered with except with the consent of the Legislature of the colony, and also referring to the address of both branches of the Legislature to Her Most Gracious Majesty the Queen, passed during its last session, the Legislative Assembly has received with surprise and alarm the *modus vivendi* referred to in the message of His Excellency the Governor, which appears to be concluded by Her Majesty's Government with the Government of France.

“ *Resolved*,—That the permission in the *modus vivendi* given to France, to erect factories, is most objectionable, being indicative of an apparent right which really has no existence, and that it is in direct opposition to the position heretofore taken by Her Majesty's Government.

“ *Resolved*,—That the Legislative Assembly most emphatically *protests* against the *modus vivendi*, as being calculated to seriously prejudice British fishing and territorial rights.

THE PEOPLE'S PROTEST.

At the great popular demonstration in St. John's, already referred to, the following resolution, amongst others, was adopted with much enthusiasm:—

“ *Whereas* the claims put forward by the French (1) to catch and preserve lobsters, (2) to erect lobster factories, and (3) to exclude our people from the prosecution of that industry, on

“certain parts of our coasts, are utterly without foundation or show of reason ;

“*And whereas* the exercise of such claims involves, in its consequences, not only directly the deprivation of our people of a valuable maritime industry, but also indirectly the settlement of a new French population with a permanent footing upon our soil, the locking-up of the territorial resources of the colony, the extinction of every valuable industry and source of wealth to our people, and the virtual transfer of the sovereignty of the soil to a foreign power ;

“*And whereas* the terms of the so-called *modus vivendi* not only accord to these unfounded pretensions the force and status of *bona fide* and reasonable claims, but confer upon the French the immediate actual possession and enjoyment of rights, territorial and maritime, to which these claims relate ;

“*And whereas* these concessions, fraught as they are with dangers and consequences to our most sacred rights and most vital interests, so stupendous and far-reaching, are entirely incompatible with the proper and effective maintenance of that position which unquestionably belongs of right to this colony and its people ;

“*And whereas* the terms of the present arrangement clearly point to some contemplated settlement of disputes with the French, and in which their claims not only to further fishing privileges on our coasts, but to the permanent occupation and sovereignty of the soil, will be or may be conceded :

“*Be it therefore Resolved*,—That for these further reasons, this meeting indignantly protests against the making of this arrangement ; that the claims now set up by the French in relation to the lobster fishery ought to have been met only by an absolute and unqualified denial ; and that to no arrangement, either for arbitration or otherwise, involving even the consideration of any possible right or claim on the part of the French to catch and preserve lobsters on our coast, to erect factories on our soil, or to hinder or interfere with our people in the prosecution of that industry, will we ever give our consent.”

GROUNDS OF OBJECTION.

The objections to the *modus vivendi* popularly expressed in

Newfoundland were concisely stated in the following article, which appeared in the *Herald* newspaper, of St. John's:—

“What are your objections to the *modus vivendi*?’ That is the question the British people may ask of us, when we appeal to their sympathies against it. It is wise to prepare the answer. We object to the *modus vivendi* because the negotiations leading up to it were commenced without our knowledge or consent—for we claim that no arrangements concerning our interests should be discussed without our prior knowledge and approval, since great results for us may be involved even in the commencement of such negotiations. We object to the *modus vivendi* because the negotiations concerning it were carried on without consultation with representatives from this colony—for we contend that wherever and whenever our rights are being discussed we should be represented by men of our choice, men familiar with the subject and enjoying public confidence. We object to the *modus vivendi* because it was concluded without our knowledge and consent—for we most earnestly contend that our rights should not be mortgaged without our approval first given. The *modus vivendi* was commenced, carried on, and concluded without our consent, without our knowledge, without our approval.

“It is safe to say that what has been done to this colony would not be attempted with any other self-governed British dependency, and if attempted would cause a revolution. We were promised in 1857—by the famous Labouchere despatch—that nothing should be done to prejudice our rights without our consent, and up to date that promise has been faithfully kept. The 1885 arrangement with France was submitted to us, and rejected. Assent to the Bait Act was refused in 1886, but conceded in 1887. The *modus vivendi* with the Americans was submitted for our approval in 1888, and accepted. No precedent exists for the disrespect shown to us in this latest affair, and the cause is hard to understand.

“We object to the *modus vivendi* because of its own outrageous terms. The initial objection is, that the mere fact of making any arrangement casts a doubt on our *exclusive* right to all the lobsters on the so-called French shore, as to which no doubt in reality exists in the minds of British lawyers and British statesmen. The admission of such a doubt, however,

“ will weaken our argument hereafter. The second objection is, that a *territorial* right is ceded to the French—temporary, it may be, but nevertheless very real, and possibly permanent. The treaties declare that the French shall only be allowed to erect temporary ‘huts necessary and usual for drying of fish,’ but the four French lobster factories already established are much more permanent structures than those described, and could not be maintained on our coasts under the terms of the treaties.

“ The third objection is, that a dual naval control is set up over our coasts, our factories, and our people. They are to be controlled by whom?—not by the Government and officials of this colony! but by a French and a British officer jointly! We talk of the west coast as ours, and point to our Customs officers, our magistrates, and our representatives in the Legislature as proof. But is it ours? The fish is not ours, the salmon is not ours, the lobsters are not ours, the factories are not ours, the labourers in them are not ours—not ours to control, that is, for they are all hereafter to be dealt with by naval officers, and over them a Frenchman is to have a power the Government of this colony and all its officials dare not exercise. The fourth objection is that the terms are intentionally framed so as to induce their own continuation, and to make permanent that which professes to be only temporary. All factories placed upon the coast since July, 1889, are to be removed, or, if retained, an equal number of French factories are to be erected. The sting is in the proviso. Twenty factories have been erected since the date named. Either these must be removed, or twenty French factories are to be erected. If these be erected, we will never be able to banish the French from the west shore, for they will say to us, ‘Take away your factories, and we will take ours: retain yours, and we will retain ours.’ Our factory owners and labourers will be thereby in bonds to the French, with money at stake to aid in retaining the old man of the sea for ever around the necks of our fishermen. Twenty French factories on the west coast will mean that the agricultural, mineral, and forest resources of that region will not be developed, for by the old treaties the French have the power to prevent us doing anything which may interrupt their fishery, and by the *modus vivendi* we expressly

“agree not to dispute with them over the legal question, Is the catching of lobsters a ‘fishery’? Twenty French factories on the west coast, with the French free to import material and stores *duty free*, means the erection of twenty St. Pierres, and this in its turn means the destruction of our revenue, the debauching of our people, and the ruin of our business.”

WHO WAS RESPONSIBLE.

Subsequent to the adoption of the foregoing resolutions by the Legislature and the mass meeting respectively, copies of correspondence between the Secretary of State for the Colonies and the Governor were submitted to the Legislature, and it was then made public for the first time that the Government of Newfoundland, as distinguished from the Legislature, had been consulted from time to time by the Secretary of State concerning the negotiations preceding the final adoption of the *modus vivendi*. This correspondence, together with that which took place subsequent to the announcement to the Legislature of the adoption of the *modus vivendi*, will be found *in extenso* in Appendix G, with the exception of a despatch dated March 28th, which was withheld from the Legislature by command of the Secretary of State. It is only just, however, to quote at this juncture the correspondence directly relating to an impression which appears to have existed in the mind of the Secretary of State to the effect that the Government of Newfoundland, at least, was willing to accept the *modus vivendi*, though it desired a modification of the terms, if possible—an impression which the Secretary apparently regarded as justifying the final adoption of the *modus vivendi* without the consent even of that Government of Newfoundland which he had previously consulted from the outset. On the 12th of February the following despatch was received:—

Secretary of State to Governor.

“It is absolutely necessary that an answer respecting the *modus vivendi* should be given to the French Government immediately. Reply must be given by the day after to-morrow.”

On the 13th of February the following despatch was sent:—

Governor to Secretary of State.

“My Ministry strongly contest the French claim to lobster

“fishing, but desire to meet the wishes of Her Majesty’s Government as to a *modus vivendi* for this season only. They desire that the date may be extended to 1st January, otherwise great hardship must ensue, as a large amount of money has been invested in erecting new factories.”

On the 20th of March the Under Secretary of State for Foreign Affairs, Sir James Fergusson, made the following statement in the House of Commons :—

“The Newfoundland Government was consulted as to the terms of the *modus vivendi*, which was modified to some extent to meet their views, but it was necessary to conclude it without referring it to them in its final shape.”

On the 25th day of March the following despatch was sent :—

Governor to Secretary of State.

“My Ministers request that incorrect statement made by Under Secretary of State for Foreign Affairs be immediately contradicted, as the terms of *modus vivendi* were not modified in accordance with their views. Ministers protested against any claims of French, and desired time to be changed to 1st January for reasons given ; but that was ignored and *modus vivendi* entered into without regard to their wishes. Ministers much embarrassed by incorrect statement made by Under Secretary of State.”

The reply, dated 28th March, was as follows :—

Secretary of State to Governor.

“Referring to your telegram of 25th March, answer of Under Secretary of State for Foreign Affairs was correct, AND CANNOT BE CONTRADICTED. See my telegram of 25th March. He did not state that *modus vivendi* was amended in accordance with your Ministers’ views, and showed distinctly that your Ministers were not responsible for *modus vivendi* as settled. They can, of course, quote his real answer and state what they desired, and that though their wishes were not ignored, it was impossible to fully give effect to them. Facts are as follows :—On receiving request that date might be changed to 1st January, 1890, we attempted to arrange for this, but French Government refused. After much discussion and with great difficulty, we carried

“ clause as to new factories, in order to avoid as far as possible
 “ necessity for wholesale removal, *which it was stated by you*
 “ *would create soreness and discontent.*”

Two facts, at least, are placed beyond dispute by the above-quoted correspondence—(1) that the consent of the “community” of Newfoundland to the *modus vivendi* was *not* obtained by laying it before the “Legislature,” which the Labouchere despatch declared to be the proper action to be taken in such cases; (2) and that even the Government of Newfoundland was not consulted as to the adoption of the *modus vivendi* as settled. The Secretary of State has not explained *why* “it was necessary” to conclude the *modus vivendi* without referring it to the Government of Newfoundland in its *final* shape, even by a telegraphic statement, though it is possible that a satisfactory explanation can be made. The Secretary has, however, replied to the complaint that the promise contained in the Labouchere despatch was violated, and his reply was as follows:—

RECEIVED APRIL 3RD, 1890.]

Secretary of State to Governor.

“ *March 21st, 1890.*—Sir,—In my telegram of the 16th
 “ December last I informed you of the wish of Her Majesty’s
 “ Government to consult Sir Wm. Whiteway, generally, on
 “ matters connected with the Newfoundland fisheries, and
 “ especially with the object of determining whether it would be
 “ possible to submit to arbitration the French claims connected
 “ with the lobster fisheries, and to consult with him as to terms
 “ of reference.

“ In your reply of the 25th December you informed me that
 “ Sir Wm. Whiteway would not be able to leave until the end of
 “ March, or perhaps not before the end of the session of the local
 “ Legislature. I have now to inform you that the Secretary of
 “ the French Embassy called at the Foreign Office on the 21st
 “ January, and observed that it could scarcely be hoped that the
 “ proposed arbitration with respect to the lobster fishery in New-
 “ foundland could be brought to a close before the commence-
 “ ment of the fishing season, and that it therefore seemed
 “ desirable, in the interests of all parties, that some *modus*
 “ *vivendi* should be arrived at for the next season only, and pend-
 “ ing the settlement of the question at issue. M. Jusserand

“ accordingly communicated, for the consideration of Her Majesty’s Government, the sketch of the basis on which such an arrangement might be made. I telegraphed to you the substance of the sketch on the 28th January. The proposal was to the following effect, viz. :—That it should be agreed as a *modus vivendi* for next season only that there should be no alteration in the position of British lobster factories or grounds as existing on the 1st of July last year, the French Government undertaking that no new lobster fishing concessions should be granted this year on fishing grounds occupied by British subjects on or before 1st July last. In case of any competition in the same locality the naval commanders on the station should jointly arrange provisional delimitation of fishing grounds; and all questions of right were reserved by both parties. You telegraphed to me in reply on the 30th January, inquiring whether you were correct in assuming that by the proposed agreement British subjects were not to establish any new factories this year, but that the French might do so provided that the ground they selected was not occupied by the British prior to the 1st of July, 1889.

“ I informed you in reply, by my telegram of the 8th of February, that the *modus vivendi* would recognise factories of both nations for this season only as existing on the 1st July, 1889, but that transfers would be permitted to other localities if approved by the naval officers of both nations; that no new concession of lobster fishery should be accorded by either Government this year; and I informed you that the proposed agreement be strictly provisional for only this season.

“ You replied, by your telegram of the 13th February, to the effect that your Ministers contested strongly the rights of the French to the lobster fishery, but that they were anxious to meet the wishes of the Imperial Government for a *modus vivendi* for this season only. You informed me that they wished the date to be extended to the 1st January, 1890, as otherwise hardships would be inflicted, as considerable money had been invested in new factories. Your subsequent telegrams of the 13th and 15th February supplied further information in regard to the number of British factories believed to be under construction or to be contemplated.

“ With a view to meet the difficulty thus pointed out, an

“ addition was proposed to be made to the draft *modus vivendi*,
 “ to the following effect :—

“ “ British lobster fisheries which may have been established
 “ “ between the 1st July, 1890, shall not be molested. But it
 “ “ shall be open to French fishermen to establish fresh lobster
 “ “ factories to a corresponding extent.

“ “ No other British lobster factories shall be in operation up
 “ “ to the 1st of January, 1891, unless by the joint consent of the
 “ “ British and French senior naval officers on the station, in
 “ “ consideration of some equivalent permission to some new
 “ “ French lobster fishery on another spot.’

“ M. Jusserand, however, called at the Foreign Office on the
 “ 20th ultimo, and stated that his Government was unable to
 “ accept this proposal, as it would place the French fishermen at
 “ a manifest disadvantage. It was obvious, he remarked, that
 “ the British fishermen, being on the spot, would have had the
 “ choice of the best places for the new fisheries, and the French
 “ Government had no means of ascertaining to what extent
 “ advantage had already been taken of this priority of choice, or
 “ would be taken before the arrival of the French fishermen.

“ It was pointed out to M. Jusserand that the prohibition of
 “ all the new lobster fisheries for which preparation had been
 “ made and money expended in the colony would not only cause
 “ considerable hardship, but would excite a feeling of soreness
 “ and irritation at the very commencement of the fishing season,
 “ which it was on every account most desirable to avoid.

“ After considerable discussion, a further amended draft was
 “ agreed upon between the two Governments, the terms of which
 “ I telegraphed to you on the 12th inst. A copy of the *modus*
 “ *vivendi* thus agreed upon is enclosed.

“ It was hoped that the *modus vivendi* would have been
 “ acceptable to your Government as an arrangement for the
 “ present season only, and as a means of avoiding disputes during
 “ the coming season, and as giving time for a more permanent
 “ settlement of the question. I was, therefore, much disap-
 “ pointed at receiving your telegrams of the 14th and 15th inst.,
 “ apprising me of objections to the agreement entertained by
 “ your Ministers, and of the passing of identic resolutions in both
 “ Houses of the Colonial Parliament protesting against the
 “ *modus vivendi* as being prejudicial to British fishing and

“ territorial rights, contrary to assurances of Her Majesty’s
 “ Government that the right of fishing should not be inter-
 “ fered with without the consent of the Colonial Legislature, and
 “ that the arrangement was objectionable as indicating the admis-
 “ sion of non-existent concurrent rights on the coast.

“ I replied to the above telegrams by mine of the 18th inst.,
 “ in which I expressed the fear which I entertained that the
 “ adoption of the resolutions which you reported would not
 “ improve the prospect of an ultimate settlement most favourable
 “ to British claims. I remarked that there was some misappre-
 “ hension in supposing that any British territorial or other rights
 “ were prejudiced by the *modus vivendi*, or that any French
 “ rights were admitted. I pointed out that all questions of
 “ principle and of respective rights on both sides were expressly
 “ stated to be reserved, and I added that neither Her Majesty’s
 “ Government nor the Colonial Legislature have the power of
 “ declaring what are British and French rights respectively, and
 “ that a provisional arrangement was necessary for the coming
 “ season.

“ Your Ministers are, of course, aware that the views held by
 “ the British and French Governments in regard to the rights
 “ of their respective subjects, in the matter of the lobster fisheries,
 “ are antagonistic ; the French Government holding that the
 “ establishment of British lobster factories on that part of the
 “ coast of Newfoundland to which the rights of French subjects
 “ extend is contrary to the engagements entered into by this
 “ country with France, while Her Majesty’s Government contend
 “ that the French have no right to fish for lobsters, and con-
 “ sequently that the erection of lobster factories by them is in
 “ excess of the privileges granted by those engagements ; and the
 “ fact of this divergence of views has given rise to the necessity
 “ of some *modus vivendi* for the coming season, so that time
 “ may be given for effecting some more permanent settlement.

“ The *modus vivendi* agreed to makes no concessions of right
 “ to the French, neither does it in any way detract from the
 “ maritime or territorial rights of the colony, and therefore does
 “ not infringe the assurance contained in the despatch from the
 “ Secretary of State (Mr. Labouchere) to Governor Darling, of
 “ the 26th of March, 1857, which, it is presumed, is the assurance
 “ referred to in the resolutions of the two Houses. That assurance

“ was to the effect that the ‘ consent of the community of New-
 “ ‘ foundland was regarded by Her Majesty’s Government as an
 “ ‘ essential preliminary to any modification of their territorial or
 “ ‘ maritime rights.’ The *modus vivendi* obviously does not
 “ affect any such modification, and Her Majesty’s Government
 “ can only hope that it will be accepted and acted upon loyally
 “ by the people of Newfoundland for the approaching season.

“ In the meantime, every effort will be made by Her Majesty’s
 “ Government to come to some more definite settlement of the
 “ question.—I have the honour to be, Sir, your most obedient
 “ humble servant,

“ KNUTSFORD.”

NEW COMPLICATIONS ARISE.

Another question bearing directly upon the lobster industry has been brought before the Legislature of Newfoundland since the adoption of the *modus vivendi*. In 1889 the Legislature enacted a law creating a Fisheries Commission, amongst the duties of which was the preparation of regulations for the prosecution of the fisheries and the lobster industry, which regulations were to be reported to the Legislature, and would become law upon the adoption by the Legislature of a resolution confirming them. Since the opening of the present session of the Legislature, a despatch from the Secretary of State to the Governor concerning the aforesaid Fisheries Commission Act has been submitted, and in this despatch it is intimated that Her Majesty will be advised to disallow the Act unless it is amended so as to make it necessary to submit the regulations to the Queen in Council before they come into operation, so as to prevent encroachment upon, or interference with, the treaty rights of the French. The intolerable and anomalous nature of French treaty rights could not be better illustrated than they have been by this occurrence. It is, for instance, considered necessary to regulate the size of the lobsters which may be caught for canning purposes, and to enforce a close season in each year, during which they cannot be caught at all. It would, however, be utterly useless to make such laws applicable to the British pursuing the lobster industry upon the coasts over which the French have treaty rights if the French, being permitted to continue taking lobsters, were not also amenable to the same laws. If the French

have no right either to take or can lobsters upon the said coasts, it is absurd and vexatious, to the last degree, that regulations concerning the taking must be submitted to the Queen in Council, in order to protect French rights; and, on the other hand, if the French have any right at all to take and can lobsters, or if, not having any such right, they are permitted to exercise one, the application of regulations to the British which the French would not observe would only result in preserving the lobster industry for the profitable prosecution of it by the French. If a right to take lobsters be conceded to the French, no effective regulations can be made without their consent; and even if no right be conceded to them, the power of regulating the taking may be rendered useless by some interference which the regulations may be construed to operate with the French cod fishery.

CHAPTER IV.

BOUNTIES AND BAIT.

UPS AND DOWNS OF FRENCH FISHERY.

It has already been shown in this pamphlet that for many years the fishing operations of the French upon the coasts of Newfoundland upon which they have treaty rights have steadily decreased in extent and importance, and that they are at present reduced to merely shadowy proportions. It is a prevalent and mischievous impression, and one which the British press unintentionally perpetuates, that the French nation sets great store upon its treaty rights upon the coasts aforesaid, because the fishery there affords a nursery or training ground of sailors to man its fleet of war-ships. Nothing could be further from the truth. French fishing vessels do not now frequent these coasts in any considerable numbers, and consequently the French Navy is not in any degree benefited by the existence of the treaty rights. The only French fishery now largely carried on in western waters is the Bank fishery, engaged in by vessels which come from France each year, and by others fitted out from

the French island of St. Pierre, all using St. Pierre and Miquelon as a summer base of operations, and for the purpose of drying their fish. St. Pierre is 125 miles distant from the nearest part of the coasts over which the French have treaty rights, and the fishery upon the Banks is entirely distinct from the fishery upon the coasts of Newfoundland. It is in the Bank fishery that sailors are now being trained for the French Navy; and the pursuit of this fishery by the French was remarkably expanded between the years 1881 and 1886, a measure being enacted in the latter year by the Newfoundland Legislature which had the effect of decreasing the success of French operations. From 1881 to 1888, both inclusive, the shipments from St. Pierre were as follow:—

1881	...	374,017	qtls. of 112 lbs. each.
1882	...	411,986	„ „
1883	...	530,045	„ „
1884	...	632,005	„ „
1885	...	820,350	„ „
1886	...	908,300	„ „
1887	...	754,770	„ „
1888	...	594,529	„ „

From Newfoundland, during the same years, the shipments were as follow:—

1881	...	1,463,439	qtls. of 112 lbs. each.
1882	...	1,231,637	„ „
1883	...	1,624,037	„ „
1884	...	1,397,637	„ „
1885	...	1,284,710	„ „
1886	...	1,344,180	„ „
1887	...	1,080,024	„ „
1888	...	1,175,720	„ „

It will be noticed that the export from St. Pierre in 1881 was exceeded by 534,283 qtls. in 1886, or *an increase of about 145 per cent. in five years.* On the other hand, the export from Newfoundland was 119,259 qtls. less in 1886 than in 1881, or *a decrease of about 8 per cent. during the same years.* It will also be noticed that the export from St. Pierre fell from 908,300 qtls. in 1886 to 754,770 qtls. in 1887, and 594,529 in 1888—a total decrease of 313,771 within two years, or *34 per cent. of the export*

in 1886. The export from Newfoundland fell from 1,344,180 qtls. in 1886, to 1,080,024 qtls. in 1887, and to 1,175,720 qtls. in 1888—a total decrease within two years of only 168,360 qtls., or only 12½ per cent. of the export of 1886, as against 34 per cent. in the case of St. Pierre; and while the decrease of exports from the latter in 1887 was followed by a still larger decrease in 1888, the decrease of exports from Newfoundland in 1887 was followed by an increase in 1888. The official figures for 1889 have not yet been published, but reliable private information is to the effect that the export from St. Pierre decreased to 300,000, or less than for any year since 1880, and about 455,000 qtls. less than in 1887; whereas the exports of Newfoundland amounted in 1889 to 1,076,507 qtls., or about the same as in 1887.

FRENCH BOUNTIES AND THEIR EFFECT.

Two questions are naturally suggested by the figures quoted—First, what was the cause of the remarkable increase of exports from St. Pierre from 1881 to 1886, both inclusive,—an increase side by side with a positive decrease in the neighbouring colony of Newfoundland? Second, what was the cause of the equally remarkable decrease of exports from that port in 1886, 1887, 1888, and 1889—a decrease so much greater proportionately than that which occurred in Newfoundland? The explanation is easily made. Prior to 1882 the French pursued the fishery upon the coasts of Newfoundland upon which they had treaty rights, and that fishery was increasingly unprofitable; but in or about that year they were forced to turn their attention to some new field for their labours, and found it in the Grand Bank fishery. In 1881 the value of the cod-fish taken by the French upon the coast of Newfoundland was estimated at \$342,588; in 1882 at \$244,800; and in 1889 the catch of the seven French vessels employed in that fishery was not over 5,000 qtls., valued at about \$20,000. With St. Pierre as a base of operations, and with the privilege of obtaining fresh bait from Newfoundlanders who carried it to St. Pierre for sale, the French fishermen would have been able probably to carry on the Bank fishery successfully, even without additional advantages. But an additional advantage of a most potent kind they did have, and its effect is testified to by the figures showing the remarkable growth of St. Pierre exports up to the time when Newfoundland refused permission to its fishermen

to sell bait to the French. That additional advantage consisted of duties imposed upon fish imported into France from any other country, and large bounties given by the French nation upon all fish caught by French fishermen and exported to foreign countries.

France imposes on all foreign-caught fish entering any of her ports a duty of 12 frs. (\$2 40 cents) per quintal; while fish taken by her own fishermen goes in free of duty. Secondly, she allows to her people the following amounts of bounty in connection with the fisheries of Newfoundland, viz.:—

1. Ten frs. (\$2) per quintal of 50 kilogrammes (equal to 110 lbs. English) on all dry cod-fish exported to the French West Indies or any of their American colonies, West Coast of Africa, or East Indies.

2. Eight frs. (\$1 60 cents) per quintal on dry cod-fish shipped to all ports in the Mediterranean, excepting Sardinia and Algeria, to which two places 6 frs. per quintal on fish are given.

3. Ten frs. (\$2) per quintal on all cod-roes landed in France.

4. Fifty frs. (\$10) per man for every man employed by those who dry their cod-fish, whether such be caught on the coast of Newfoundland, St. Pierre and Miquelon, or on the Grand Bank.

THE TESTIMONY OF A COMMITTEE.

The effect of these bounties is spoken of in the following extract from the report made in 1886 by a Committee of the Newfoundland Legislature, which report will be found *in extenso* in Appendix C:—

“The French fishery, in relation to ours, has undergone considerable change in recent years—seriously speaking, to our disadvantage. In the first place, to fish exported from St. Pierre to countries outside France—that is to say, to markets where it competes with ours—an average bounty of 10 frs. per quintal (112 lbs. English) is at present paid by the French Government. Formerly this did not conflict with our interests, as the French bankers were equipped in France, and brought most of their produce back to France to be consumed there, leaving only a small portion for exportation from St. Pierre to the French West Indies. Consequently Newfoundland rarely, if ever, found France a competitor in those markets to which we exported our fish.

“Now, however, St. Pierre has become an extensive port of

“ trade and of export for traders from other countries ; and there
 “ is a large fleet of French bankers, and also a fleet sailing under
 “ the French flag, managed by French agents at St. Pierre, and
 “ owned, to some extent, by English and American subjects,
 “ employed in catching fish to compete with us in all the
 “ European markets. This increasing fleet of Bank fishers has an
 “ enormous advantage over our fishermen, from the fact that, in
 “ addition to the bounty before referred to, they obtain food and
 “ goods of all kinds necessary for the fishery at St. Pierre almost
 “ free of duty. While our fishermen are thus handicapped in
 “ the catching of fish, this fleet of bankers from St. Pierre obtain
 “ their supply of bait from our waters. The fish thus taken is
 “ landed at St. Pierre, and on its export receives from the French
 “ Government a bounty equivalent to about 10 frs. for every
 “ 112 lbs. (English), 8 frs. direct and about 2 frs. indirect. The
 “ average price of Labrador fish, which is more especially com-
 “ peted with by French Bank fish, did not exceed in this colony
 “ during the past season 11 frs. for every 112 lbs. (English). It
 “ will thus be seen that the bounty, as above, and differential
 “ duty on St. Pierre fish entering Spain, under the most-favoured-
 “ nation clause in their tariff, amount to $12\frac{1}{2}$ frs. on every 112 lbs.
 “ (English), or, in other words, to more than the whole value
 “ obtained by our fishermen for Labrador fish.”

EVIDENCE BY UNPREJUDICED WITNESSES.

The following extracts from correspondence laid before the Legislature will help to show how disastrously French bounties operated upon Newfoundland trade :—

“ The following is from A. P. Inglis, Esq., British Consul at
 “ Leghorn, and is dated 28th February, 1887 :—

“ “ During 13 months ended 31st January, 1887, the quantity
 “ “ of French-cured cod-fish imported at Leghorn was 63,500
 “ “ qtls., whereas as recently as 1883 it was only consumed here
 “ “ in small quantities, early in the season, before the English
 “ “ fish came in. The bounty given by the French on fish landed
 “ “ at Leghorn is 16 frs. for 100 kilogs. The amount of bounty
 “ “ paid during the above period was £20,612 sterling. Rates of
 “ “ bounty vary at different ports, the bounty at Genoa being
 “ “ 14 frs., at Naples 11 frs. The object in giving a higher
 “ “ bounty for Leghorn was no doubt to encourage the French

“ ‘ curer to send his fish to the market where the English fish
 “ ‘ had taken such a firm hold.

“ ‘ It seems also that the French curers have only lately
 “ ‘ become fully alive to the advantages to be reaped from a trade
 “ ‘ thus liberally subventioned, as the imports noted above are
 “ ‘ quite unprecedented. The whole of it is not intended for
 “ ‘ consumption. In this district a large portion goes to Genoa
 “ ‘ by rail ; it is landed here to take the higher bounties.

“ ‘ I beg leave to add that the impulse thus given to the
 “ ‘ French curer is exercising a very baneful effect on our own
 “ ‘ Newfoundland trade, and I am informed by one of our prin-
 “ ‘ cipal importers that during this month he has actually re-
 “ ‘ shipped to England 1,200 bales of Newfoundland cod-fish.’ ”

“ ‘ From Genoa, the British Consul forwards information from
 “ ‘ Messrs. Garnet, Brown, & Co., as follows :—

“ ‘ The French tariff accords a premium to French cod-fish,
 “ ‘ whether imported to consuming countries direct from French
 “ ‘ fishery stations or French ports, of 12 frs. per 100 kilogs. if
 “ ‘ discharged in a port of the old Sardinian States, but of 16
 “ ‘ frs. if discharged in other European ports of the Mediter-
 “ ‘ ranean. . . .

“ ‘ To obtain the larger bounty, the French send their fish to
 “ ‘ Leghorn, which is not included in the old Sardinian Kingdom ;
 “ ‘ from thence it goes to other ports of the Mediterranean.

“ ‘ The premium paid by the French Government was up to
 “ ‘ 1884 only upon fish imported by sea direct from fishing stations
 “ ‘ and in French vessels, but owing to quarantine regulations
 “ ‘ which prevented imports by sea from France the bounty was
 “ ‘ transferred to shipments by rail.

“ ‘ The great increase in French shipments is to be attributed
 “ ‘ to the bounty, which used to be paid only on direct imports,
 “ ‘ now refunded to establishments set up in French ports.

“ ‘ The large premiums paid by French Government present
 “ ‘ great inducements to capitalists. According to the price
 “ ‘ ruling in 1886 40 and 50 per cent. was added to the selling
 “ ‘ price, this selling price being the lowest figure at which
 “ ‘ English fish, its chief rival, can be imported into Europe.

“ ‘ Under present circumstances, therefore, the sale of English
 “ ‘ fish is so unfavourably placed that its gradual cessation must
 “ ‘ be only a question of time.

“ ‘The duty in Italy is 5 frs. per 100 kilogs. Newfoundland
 “ ‘appears to have suggested the best manner of protecting its
 “ ‘fishermen, viz.—that of prohibiting the sale of bait to the
 “ ‘French; and until the bounty is removed or much reduced we
 “ ‘cannot consider this means of retaliating for the injury done
 “ ‘by the French unjustifiable.’ ”

“ We give a few extracts from the correspondence of E. H. B.
 “ Hartwell, Esq., the British Consul at Naples :—

“ ‘In former years French cod-fish was unknown here, as the
 “ ‘catch of the French was barely sufficient for the requirements
 “ ‘of home consumption in France; but with the stimulus given
 “ ‘to French shippers by additional bounties, larger numbers of
 “ ‘vessels were fitted out, and the surplus in these last few years
 “ ‘has had to be forced on Italian and other foreign markets.
 “ ‘In 1884 the French imports into Genoa were but a few small
 “ ‘parcels; in 1885 they rose to 5,300 qtls., or 13 per cent. of the
 “ ‘total import; and in 1886 the imports further increased to
 “ ‘19,800 qtls., as against 25,600 qtls. of English fish, or 44 per
 “ ‘cent. of the entire quantity imported. During 1886 the
 “ ‘average price of Labrador cod-fish was 14s., cost, freight, and
 “ ‘insurance, which price must have entailed a heavy loss on
 “ ‘British shippers. On the other hand, the French bounty of
 “ ‘16 frs. brought French fish to 20s. 6d., or nearly 50 per cent.
 “ ‘over and above that obtained by British shippers; and it is
 “ ‘quite evident that unless some means are devised for pro-
 “ ‘tecting British shippers from the prejudicial effects of the
 “ ‘French bounty system, the extinction of the Labrador fish
 “ ‘is only a question of time.’ ”

“ The British consuls in Italy and other parts of the Mediter-
 “ ranean, of Spain and Portugal, all tell us the same story.
 “ Those at Valencia and Alicante say that *the cheapness* of French
 “ fish is driving out the Newfoundland cure. We specially call
 “ the attention of our readers to the following :—

“ ‘As a proof of the utter impossibility of competition with
 “ ‘French fish it will suffice to mention the fact *that French*
 “ ‘*shippers have actually offered and sold fish to Spain for*
 “ ‘NOTHING in Bordeaux, and Spanish buyers therefore have
 “ ‘actually obtained it merely for the cost of carriage and
 “ ‘Spanish duties, while the French shippers were satisfied
 “ ‘with the bounty which they received from their Govern-

“ ‘ment. This being the case, the *complete destruction of the*
 “ ‘*Newfoundland trade with Spain is of course only a question*
 “ ‘*of time.*’ ”

A DELEGATION'S STATEMENT.

A delegation sent to London, in 1887, by the Legislature of Newfoundland, submitted a statement which still further explains the operation of these French bounties. The following quotation from this statement will be appropriate here:—

“ STATEMENT OF GROWTH AND EFFECTS OF FRENCH BOUNTY-SUSTAINED FISH COMPETITION WITH THE PRODUCE OF NEWFOUNDLAND FISHERIES IN THE EUROPEAN MARKETS.

“ ITALIAN PORTS.

“ *Naples.*—The imports into this port show for 1885—

					Cwts.
Newfoundland	...	...	...	...	35,000
French	...	...	...	...	5,300
					<hr/>
					40,300
For 1886—					
Newfoundland	...	...	...	...	25,600
French	...	...	...	...	18,800
					<hr/>
					44,400

“ or an increase of French cod of over 300 per cent. in the latter
 “ year.

“ Writing from Naples, under date March 3rd, Messrs. Main-
 “ gay, Robin, & Co., the principal consignees there, state:

“ “ In former years French cod-fish was not imported
 “ “ here, but with the stimulus given to French shippers
 “ “ the importation of French cod-fish is rapidly increasing,
 “ “ with a corresponding decline to British importations.’ ”

“ *Leghorn.*—The principal fish agent at this port, Mr. J. G.
 “ Iago, writes as follows, under date 21st February, 1887:—

“ “ The French have almost entirely taken hold of this
 “ “ market for fish. Their imports for 1886 have been
 “ “ 64,540 cwts., on which they have received a sum of
 “ “ bounty of 516,320 frs. Our sales of Newfoundland fish
 “ “ have this week been 200 cwts., against 1,800 in the
 “ “ corresponding week of last year. I have had to ship
 “ “ to England the entire cargo of the “Robert.” and,

“ although only some 2,500 cwts. remain in store, I
 “ doubt much if an outlet can be found for this before
 “ Lent terminates. French fish keeps pouring in, and
 “ usurps the place formerly held by British cure. It is
 “ evident something must be done to protect the English
 “ fisheries, or the sooner they are abandoned the better.’

“ *Genoa.*—The following figures show the progressive increase
 “ of French fish sent into Genoa :—

	Cwts.
In 1885 were imported	25,991
In 1886	45,885

“ This is independent of fish sent into Genoa by rail, *viâ* Mont
 “ Cenis Tunnel, the quantity of which it is impossible to
 “ ascertain, but the best-informed estimate it at 50,000 cwts.

“ *Valencia.*—Until last year this market was free from French
 “ competition. There were imported in 1885—

	Cwts.
Newfoundland	35,000
French	None.

In 1886—

Newfoundland	22,000
French	20,000

“ *Alicante.*—In this market the sale of Newfoundland cod-
 “ fish has most materially declined through its displacement by
 “ French-caught fish. Alicante was formerly a most valuable
 “ market to the Newfoundland trade, being a port of distribution
 “ for fish to Madrid, Saragossa, &c., &c. These places are now
 “ almost wholly supplied with French fish, that for Madrid and
 “ northern places being sent through Bilbao and Passages, to which
 “ it goes by rail from Bordeaux at a very cheap rate. A large part
 “ of the fish caught by the French in Newfoundland is shipped
 “ in an uncured state to Bordeaux, and is there cured, a con-
 “ tinuous supply being sent from there chiefly by rail into the
 “ Spanish markets. The quantity thus received from France in
 “ in 1885 was 56,723 cwt., and in 1886, 82,600 cwt.

“ *Malaga.*—French fish is also being shipped to Malaga,
 “ which market was formerly supplied by Newfoundland, from
 “ which the importations are now of small account.”

BAIT PROHIBITION ENACTED.

In 1886 the Legislature of Newfoundland, naturally alarmed at the commercial outlook, appointed a Select Committee "to consider the subject of the capture and sale of bait." This Committee reported to the effect that the "possession of fresh "bait" was essential to the prosecution of the Bank fishery; that the French were by their bounties unfairly competing with Newfoundland fish in foreign markets; and that an Act to prohibit the sale or exportation of bait should forthwith be enacted. Accordingly, a Bait Act was enacted; but it was not to come into effect until after the 31st of December, 1886, in order that the French might have due notice, and the action of the colony not be deemed one of harshness or unjustifiable provocation to a nation at peace with Great Britain. The reasons for this measure were very ably set forth in the beginning of 1887 by the then Governor of Newfoundland, Sir George William Des Vœux, now Governor of Hong Kong. From his statesmanlike despatch to the Secretary of State for the Colonies the following extracts are made:—

Governor Sir G. Wm. Des Vœux to Colonial Office.

[Copy, No. 2.]

" GOVERNMENT HOUSE, ST. JOHN'S,

" NEWFOUNDLAND, 14th January, 1887.

" SIR,—In view of the great anxiety existing in this colony
 " with regard to the fate of the Bill 'to Regulate the Exportation
 " 'of Herring, Caplin, Squid, and other Bait Fishes,' which passed
 " the Local Legislature in the session of last year, and was
 " reserved by me for the signification of Her Majesty's pleasure,
 " I feel bound to accede to the desire of My ministers that I
 " should make another effort to obtain from Her Majesty's
 " Government a decision favourable to the desires of the
 " colonists.

" 2. The more complete knowledge of the position of affairs
 " which I have acquired during the six months that have elapsed
 " since I first addressed your predecessor with regard to this Bill,
 " and the fuller consideration which in the meantime I have had

“ the opportunity of giving to the subject, have strengthened to
 “ the point of complete conviction my previous impression of its
 “ vital importance to the interest of the colony, and have left me
 “ no reason to doubt that the disallowance of the measure, with-
 “ out the adoption of some other equally efficacious to secure the
 “ same end, will be nothing less than a calamity.

“ 3. For it is only by residence here that it is possible to
 “ appreciate to the full how completely the prosperity of the
 “ colony depends on its fisheries, and how inevitable is the ruin
 “ and misery of the greater part of its population unless the
 “ causes are removed that tend to render this industry con-
 “ tinuously unprofitable.

“ 14. Dried cod-fish, the production of which may be said to
 “ constitute the main support of our population, is to the extent
 “ of probably two-thirds of the consumption of the world, obtained
 “ from the seas in the immediate neighbourhood of this colony,
 “ either on the coasts of the island and its dependency, Labrador,
 “ or over the extensive marine plateau known as the ‘Banks of
 “ ‘Newfoundland.’ Of late years the coast fishery has much
 “ declined in actual extent, and still more in relative importance;
 “ while, on the other hand, that of the Banks has, from various
 “ causes, advanced with rapid strides.

“ 15. As the Banks of Newfoundland are outside the limits of
 “ our territorial waters, people of other nationalities besides the
 “ British, especially French and Americans, are engaged in the
 “ fishery there; and it is the great increase of their numbers in
 “ recent years, and the enormously increased quantity of fish
 “ thus obtained, which is regarded as the principal cause of the
 “ diminished prices which are so seriously affecting this colony.

“ 16. As the immediate neighbourhood of the coast of New-
 “ foundland enables its people to cure even the fish caught on
 “ the Banks so as to produce a better quality, and at a smaller
 “ cost, than is possible for foreigners, the above evil might be
 “ expected and allowed to cure itself, if the competition were
 “ otherwise on even terms, as the production would in all
 “ probability fall off until it had reached the point where it
 “ became remunerative for all concerned. But the competition
 “ is not on even terms in other respects, and the advantages
 “ granted to the foreign fishermen by their respective Govern-

“ments are such as to more than compensate for the natural
 “advantages possessed by the people of Newfoundland, so that
 “the former are able to maintain and continually increase their
 “products, while the latter are less and less able to maintain the
 “unequal struggle.

“17. American fishermen are protected in the markets of the
 “United States, which take all their produce, by a duty of 56
 “cents a quintal, which is almost prohibitive to the results of
 “British industry; while the French fishermen are supported not
 “only by a law absolutely prohibiting the importation of British-
 “caught fish into France, but by bounties, on export and other-
 “wise, and varying from 8 to 12 francs per quintal, according to
 “destination, on such as is exported to foreign markets.

“18. Under the circumstance, while the United States
 “market is practically, and the French market is actually, closed
 “to British-caught fish, the latter is, by the operation of the
 “French bounties, being gradually extruded from all other
 “markets, except as regards the limited quantity taken by Brazil
 “and other tropical countries requiring a quality such as cannot
 “be produced by the French, owing to the want of the facilities
 “of curing afforded by the neighbouring coast of Newfoundland.

“19. At the present moment French fish can, I am told, be
 “bought all over the Continent of Europe at 12s. 6d. a quintal.
 “The French fishermen, however, obtain for it 21s. a quintal—
 “the bounty being thus equal to 72 per cent. of the value—while
 “the British fishermen for their superior produce can obtain only
 “14s. a quintal, or 35 per cent. less.

“21. Now it happens that the quantity of fish caught on the
 “Banks very largely depends on the supply of fresh bait-fishes,
 “and these are principally obtained from the territorial waters of
 “Newfoundland, or in the immediate neighbourhood, being
 “bought by foreigners, as well as British subjects, from the
 “fishermen of Fortune Bay and the neighbouring inlets. Salt
 “or otherwise artificially prepared bait, though cod can be caught
 “with it, does not attract them by any means in the same
 “degree, while fresh bait, if the supply from the neighbouring
 “coast were closed to foreigners, could only be procured by them
 “on the more distant portion of the Newfoundland coast where
 “the French have fishing rights, or elsewhere at considerably

“ greater cost, and, owing to ice, at a period of the year later by
 “ three or four weeks. If the cheaper, more ready, and more
 “ prolonged supply from the coast in the immediate neighbour-
 “ hood of ‘the Banks’ were cut off, there can be no doubt whatever
 “ that under no possible bounty could the quantity obtained by
 “ foreigners remain as large as at present, and in all probability
 “ it would fall off to that which would be sufficient for their
 “ home markets.

“ 22. This being the state of the case, it is evident that
 “ Newfoundland is thus furnishing the means of its own destruc-
 “ tion, and it cannot be a matter of surprise that its people
 “ should desire to put an end to so pernicious an anomaly, and to
 “ be permitted to adopt the principle, which I am informed has
 “ long been put into practice in England, of preventing access to
 “ their coasts on the part of foreigners for the purpose of
 “ procuring bait.

“ 23. If the loss caused to foreigners by the cutting off of the
 “ supply were at all commensurate with that which will be suf-
 “ fered here from its continuance, the argument against such a
 “ measure on the ground of international comity would, of course,
 “ have much strength ; but, as a matter of fact, the one is not at
 “ all comparable with the other. For, while the fishing industry
 “ in this neighbourhood is, by comparison with their other resources,
 “ of infinitesimally small importance to the other peoples con-
 “ cerned, it is to the people of this colony their all in all ;
 “ and the withdrawal of the privilege from foreigners, while it
 “ would at the worst cause them only a comparatively trifling
 “ inconvenience, is to us the sole means of preservation from
 “ ruin.

“ 24. Under these circumstances, the case of the colonists in
 “ favour of the proposed prohibition would be very strong, even
 “ if the foreigners to be prohibited were in no way contributing
 “ to the evil which it is designed to remedy ; but in fact they
 “ are, one and all, so contributing by the exclusion of Newfound-
 “ land fish from their markets, while the French, who would
 “ probably suffer most from the proposed measure, are by reason
 “ of their export bounties chiefly responsible for its necessity.

“ 25. Though this law, if allowed, would to a large extent
 “ place the fish production in this neighbourhood within the
 “ control of the people of this colony, they have no desire to

“ monopolise it, and I feel satisfied that they would willingly
 “ modify the provisions of the measure in favour of such Govern-
 “ ments as would grant a proportionate reciprocity.

“ 26. Without, of course, being able to speak with certainty
 “ as to the amount of concession that would be granted by the
 “ Legislature in any particular case, I have very good reason for
 “ believing that, as regards the United States, the right of
 “ obtaining bait would be restored on the opening of the American
 “ markets to Newfoundland fish, or (if common cause be made
 “ with Canada) to all British fish ; while, in view of the greater
 “ expense involved in maintaining the fishery from head-
 “ quarters on the other side of the Atlantic, I believe that in the
 “ case of the French the abolition, or a substantial reduction, of
 “ the export bounties would alone be held sufficient, even though
 “ the other bounties and the prohibition of the import of British
 “ fish were still retained. In a word, the principle that the
 “ colonists desire to maintain is, ‘Live and let live,’ and they
 “ merely object to that of ‘Let others live by killing us.’

“ 26A. But whether the views of the colonists on this subject
 “ are just or not (and after much and anxious consideration of the
 “ subject I am bound to say that, in my opinion, they are based
 “ on very substantial grounds), the proposed measure of pro-
 “ hibition, as in no way affecting the treaty rights of foreign
 “ powers, can scarcely be contended to be otherwise than such as
 “ is within the competence of the local Legislature under the
 “ existing constitution of the colony ; and, indeed, if the same
 “ object had been aimed at by more indirect means, and a Bill
 “ had been passed imposing a prohibitive duty on bait exported
 “ in foreign vessels, it appears open to doubt whether, under my
 “ existing instructions, I should have been justified in refusing
 “ assent to it.

“ 27. But however this may be, any question as to the com-
 “ petence in the matter of the Colonial Legislature has been
 “ practically set at rest by the recent allowance of the Canadian
 “ Bill, which, I am informed, adopts almost precisely similar
 “ means for securing an analogous object ; and as the importance
 “ of the fisheries to the Dominion is, moreover, incomparably less,
 “ for the reasons above given, than to this colony, it may be
 “ presumed that the disallowance of the Newfoundland Bill,
 “ which would appear probable from the long delay of decision, is

“ due to some Imperial consideration which applies either not at
 “ all, or in a considerably less degree, to the case of Canada. If
 “ this be so, as indeed there are other reasons for believing, I
 “ would respectfully urge that in fairness the heavy resulting loss
 “ should not, or at all events not exclusively, fall upon this
 “ colony, and that *if in the national interest a right is to be*
 “ *withheld from Newfoundland which naturally belongs to it,*
 “ *and the possession of which makes to it all the difference*
 “ *between wealth and penury, there is involved on the part of the*
 “ *nation a corresponding obligation to grant compensation of a*
 “ *value equal, or nearly equal, to that of the right withheld.*

“ 28. Without further reference to the Canadian Act referred
 “ to, I may mention as possibly having escaped notice, that its
 “ object will to a large extent fail to be secured if the similar
 “ measure of this colony should not be in force, as it is not
 “ impossible that the Americans could afford to disregard the
 “ prohibition of bait supply on the Canadian coast if they were
 “ assured of being able to procure all they require on the coast
 “ of Newfoundland.

“ 32. Now that I fully comprehend the present position of the
 “ colony, it is to me no longer a matter of wonder that the
 “ Legislature has hitherto failed to ratify the proposed ‘ arrange-
 “ ‘ ment ’ with France ; indeed, I can scarcely conceive it possible
 “ that this arrangement will ever be accepted so long as the bait
 “ clause remains in it, and no security is taken that the export
 “ bounties will not be maintained in their present footing.

“ 33. For though all the other articles have the appearance
 “ of concession on the part of the French, and some are no doubt
 “ substantial concessions, they are all immeasurably outweighed
 “ by the single concession required on the part of this colony.
 “ For if there were granted to the French an inalienable right to
 “ procure bait here, the future, not only of the coast where they
 “ already have fishing rights, *but of the whole colony, would*
 “ *practically be placed within the control of their Government.*
 “ Even if the present bounties should prove insufficient, it would
 “ require but a slight addition to them, involving an exceedingly
 “ small cost by comparison with the enormous expenditure of
 “ France, to destroy the trade of this colony altogether and at
 “ once ; and in view of the great importance attached to their

“ fisheries by the French, as the means of maintaining the
 “ strength of their Navy, it would appear by no means improbable
 “ that such an attempt would be made if there were thus with-
 “ drawn the only means of preventing its success. And this
 “ probability appears the greater when it is considered that the
 “ cessation of British production, with the cause in operation that
 “ would render its recovery impossible, would in all probability
 “ produce a rise in the market value of fish, which would even-
 “ tually render unnecessary the continuance of any bounty, so
 “ that the additional expenditure on the part of France would be
 “ only a temporary sacrifice that would secure a permanent
 “ economical gain.

“ 34. As the matter at present appears to me, it seems
 “ deserving of the consideration of Her Majesty’s Government
 “ whether it would, under any circumstances, be politic to place
 “ in the hands of the French a weapon capable of being used
 “ with such terrible effect against British interests, and whether,
 “ without the security for the discontinuance of the bounties on
 “ their present footing, as above referred to, it would be wise to
 “ make further effort for the passing of the arrangement while
 “ the bait clause is included in it.

“ 35. In conclusion, I would respectfully express on behalf of
 “ this suffering colony the earnest hope that the vital interests
 “ of 200,000 British subjects will not be disregarded out of
 “ deference to the susceptibilities of any foreign Power, and this
 “ especially when the privilege which that Power desires to
 “ retain cannot be pretended to be matter of right, but is a
 “ benefit which may be lawfully withdrawn, as in the nature of a
 “ tenancy at will, and may now be justly withdrawn as being
 “ used for the infliction of fatal injury on those who have hitherto
 “ permitted its enjoyment. Sincerely hoping that the fulfilment
 “ of the desires of Newfoundland may be no longer delayed, and
 “ that I may be able to meet the Legislature next month with
 “ the announcement that this important Bill has already received
 “ Her Majesty’s gracious allowance and confirmation,

“ I have, &c.,

(Signed) “ G. WILLIAM DES VŒUX.

“ The Right Honourable

“ Her Majesty’s Principal Secretary of State

“ for the Colonies.”

THE BAIT ACT (1886) DISALLOWED.

Despite the advice of Governor Des Vœux, and the obviously impregnable position of the Newfoundland Legislature, *the Bait Act of 1886 was disallowed by the British Government*, the reasons being given in the following despatch from the Secretary of State to the Governor of the colony:—

Colonial Office to Governor Sir G. William Des Vœux.

[Copy, Newfoundland, 4.]

“ DOWNING STREET,

“ 3rd February, 1887.

“ SIR,—I have the honour to acknowledge receipt of your
 “ despatch, No. 2, of the 14th of January last, upon the subject
 “ of the Bill passed by the Legislative Council and Assembly of
 “ Newfoundland during the last session, and reserved by you for
 “ the signification of Her Majesty’s pleasure, entitled, ‘ An Act to
 “ ‘ Regulate the Exportation and Sale of Herring, Caplin, Squid,
 “ ‘ and other Bait Fishes,’ a transcript of which accompanied your
 “ despatch, No. 60, of the 26th of May last.

“ Her Majesty’s Government have carefully considered your
 “ despatch now under acknowledgment, together with your pre-
 “ vious despatches on the subject, as well as the Attorney-
 “ General’s report and the petition which accompanied your
 “ despatch, No. 60, of the 19th of June last, addressed to the
 “ Secretary of State by both Houses of the Legislature, praying
 “ that the Bill may not be disallowed.

“ The representations made by the Attorney and by Sir
 “ Ambrose Shea, with whom Her Majesty’s Government had the
 “ advantage of repeatedly conferring during their visits to this
 “ country, have also received full attention. Owing to the
 “ changes of the Government here, there has, unfortunately,
 “ been some unavoidable delay in dealing with this question; but
 “ I have made it the first subject of my consideration, and have
 “ not lost any time in bringing it under the notice of Her
 “ Majesty’s Government, who recognise the great importance of
 “ maintaining and developing by all legitimate means that
 “ industry on which the greater part of the population of New-
 “ foundland is directly or indirectly dependent. The representa-

“ tions of the French Government, on the other hand, have also
 “ necessarily received careful attention.

“ Her Majesty’s Government are aware that, when the Con-
 “ vention of 1857 was under consideration, a clause relating to
 “ bait formed one of the grounds for the rejection of that Con-
 “ vention by the Government of Newfoundland; but it is to be
 “ remembered that the clause in question conferred on the
 “ French not only the right to purchase bait, but to take it for
 “ themselves on the south coast in a certain contingency, and
 “ was for this reason much more unfavourable to colonial
 “ interests than that inserted in the ‘arrangement’ of 1885.

“ In the negotiations which have taken place since 1857 a
 “ provision for the sale of bait to French fishermen has been
 “ invariably contemplated, and has been agreed to by represen-
 “ tatives of the colony on more than one occasion. Moreover, in
 “ resolutions adopted in 1867, and again in 1874, the Legislative
 “ Council and House of Assembly of Newfoundland agreed to a
 “ clause allowing the French to purchase bait at such times as
 “ British subjects might lawfully take the same.

“ More recently, again, when the ‘arrangement’ of 1884, in its
 “ first stage, was communicated to the Colonial Government, the
 “ article providing for the sale of bait to French fishermen was
 “ not objected to by them, although other modifications of the
 “ details of the arrangement were pressed by the colony. It was
 “ only at so recent a date as the spring of last year, when the
 “ arrangement as revised in 1885, in accordance with the wishes
 “ of the Colonial Government, was presented for the final approval
 “ of the Legislature of Newfoundland, that exception was taken
 “ to the provision for the sale of bait to the French fishermen;
 “ and this objection was followed up by the passing of an Act to
 “ give effect to it.

“ I recapitulate these facts in order to explain how it is that
 “ Her Majesty’s Government, while fully recognising the serious
 “ character of the representations now placed before them as to the
 “ actual condition and prospect of the colonial fish trade, feel con-
 “ strained to admit that there are special difficulties in the way
 “ of an entire departure, at the present moment, from the policy
 “ which has been so long adhered to. The time is now close at
 “ hand at which the French fishermen prepare to sail for the
 “ fisheries, and large expenditure has been incurred for the

“ season; and the French Government, having received no
 “ formal intimation that the practice hitherto uniformly main-
 “ tained will be departed from, has been entitled to assume that
 “ there will be no alteration in the arrangements for the current
 “ year. Her Majesty’s Government would, consequently, not be
 “ justified in disregarding the strong protest of the French
 “ Government against the introduction, at this late period, of
 “ restrictions calculated to inflict great loss upon the French
 “ fishermen; and, as for this reason they are unable to advise the
 “ Queen to allow the Bill to come into operation in respect of the
 “ approaching fishing season, it will not at present be submitted
 “ for Her Majesty’s confirmation.

“ I do not desire now to raise the question how far the
 “ objection to the sale of bait to the French should, if well
 “ founded, have been pressed at an earlier date.

“ The papers before me make it clear that it has but very
 “ recently been discovered that the operation of the French
 “ bounties has so lowered the price of fish in the markets of
 “ Europe as to make the fishing no longer profitable to the
 “ colonists, who are not aided by bounties. In the 19th para-
 “ graph of your despatch, you state that on the continent of
 “ Europe French-caught fish is sold for 12s. 6d. per quintal,
 “ while that caught by British fishermen, being better prepared,
 “ fetches 14s. per quintal.’

“ As the French fishermen receive, in addition, a bounty
 “ which you state amounts to some 8s. 6d. per quintal, it is
 “ sufficiently obvious that the British fishermen lie under a
 “ grave disadvantage; but I do not perceive that it has yet been
 “ shown in detail that although there is a great difference
 “ between the present price of 14s. per quintal and the former
 “ price of 15s. to 20s.—which, as stated in a memorandum to Her
 “ Majesty’s Government, was obtained for Newfoundland fish
 “ until about two years ago—the colonial fishery has actually
 “ ceased to be remunerative, and to what extent.

“ It is desirable that the case for the allowance of the Bill
 “ should be supported by full evidence on this point, and during
 “ the current year it will be possible to ascertain accurately the full
 “ effect of the French bounties and the exact position of the
 “ British fishing trade. Until these facts have been established
 “ it is not possible for Her Majesty’s Government to decide with

“ confidence whether the proposed legislation will prove to be the
 “ best mode of applying a remedy for the depressed state of the
 “ colonial fishery, or whether, after further communication with
 “ the French Government, upon a more precise statement of the
 “ facts, such remedy may be found in some other direction.—

“ I have, &c.,

(Signed) “ H. T. HOLLAND.

“ Governor Sir G. W. Des Vœux,
 “ K.C.M.G., &c., &c.”

THE LEGISLATURE RETORTS.

To this despatch the Legislature, at the very commencement of the session of 1887, replied (1) by re-enacting the Bait Act; (2) by an address to the Secretary of State; and (3) by sending the Premier, Sir Robert Thorburn, and Sir Ambrose Shea, now Governor of the Bahamas, to London to procure the assent of Her Majesty to the Act. The address was as follows:—

“ TO THE RIGHT HONOURABLE HER MAJESTY’S PRINCIPAL
 “ SECRETARY OF STATE FOR THE COLONIES.

“ SIR,—

“ We, Her Majesty’s loyal subjects, the Commons House of
 “ Assembly of Newfoundland, in session convened, have had
 “ under consideration the subject of our coast fisheries, in
 “ relation to the operation of foreign fishermen and their com-
 “ petition in our markets. The history of this important matter
 “ was exhaustively examined in an address, from both branches
 “ of our Legislature, to the Right Hon. the Secretary of State
 “ for the Colonies in May last. This address accompanied a Bill,
 “ passed in the last session, to control the sale of bait to
 “ foreigners, and set forth the reasons for the adoption of that
 “ measure, and with such completeness and force as to claim its
 “ confirmation by Her Majesty’s Government, for whose sanction
 “ it had been reserved.

“ The Council and House of Assembly had not contemplated
 “ the possibility of successful opposition to their views in this
 “ case. The measure was the outcome of a state of things which
 “ placed all our interests in a perilous position. We accordingly
 “ passed the Bait Act as a measure of self-preservation, and this
 “ was so clearly shown in the address that accompanied it, that
 “ we saw no room for doubt of the cordial concurrence of Her

“ Majesty’s Government in this endeavour to guard the integrity
 “ of our trade and the well-being of our population.

“ It was, therefore, with feelings of profound disappointment
 “ and regret that we learned from His Excellency’s Speech at
 “ the opening of the present session of the Legislature, and from
 “ your despatch to him, of the 3rd inst., that Her Majesty will
 “ not be advised to give her sanction to this Bill.

“ This announcement awakened a public sentiment that has
 “ had its expression in the immediate passage of another similar
 “ Bill, which took precedence of all other business in the Legis-
 “ lature, and will be transmitted immediately for the approval of
 “ Her Majesty’s Government. We most earnestly trust that the
 “ result of this renewed effort in support of our rights may not be
 “ another disappointment, with its ruinous consequences.

“ When we learn from your despatch that the main reason for
 “ the refusal of our Bill is that its present adoption would ‘ inflict
 “ ‘ grave loss on the French fishermen,’ we cannot forbear from
 “ the expression of our surprise at this apparent disregard of the
 “ sufferings of our fishermen, and of the British interests which
 “ are thus made subservient to the purposes of foreigners. The
 “ people of this colony have the right in our fisheries, and
 “ foreigners have not; and we cannot see those rights sur-
 “ rendered in defiance of our appeals without expressing our deep
 “ sense of the injustice to which our people are thus called on to
 “ submit. . . .

“ Your despatch sets forth that further information is required
 “ to enable Her Majesty’s Government to appreciate the true
 “ character and bearings of our Bait Bill. The address of the
 “ Legislature, already referred to, in possession of Her Majesty’s
 “ Government, is pregnant with facts in justification of that
 “ measure, and appears to us to exhaust the whole subject. But
 “ while we fail to see any want of completeness in the evidence
 “ already supplied, every desire is felt to satisfy any further
 “ reasonable requirements in this respect.

“ It would further appear from your despatch that, in support
 “ of the objections to the measure, much importance is given to
 “ the fact that the bait traffic has been long recognised, and has
 “ only of late been resisted. We thought the reasons for this
 “ change of view had been fully explained in the representations
 “ recently made to Her Majesty’s Government. The traffic was

“ permitted so long as the bounty-assisted fisheries of France
 “ found a market in that country for their produce. But within
 “ the last three years, the great increase in their fisheries has
 “ gone far beyond the requirements of their home markets;
 “ and we find them meeting us in Spain, Italy, and other
 “ European countries, and with the bounty equal to 60 per cent.
 “ of the value of the fish, they are fast supplanting us; the
 “ reduced value of our staple industry from this cause already
 “ representing a fairly estimated sum of £250,000 per annum,
 “ under conditions that menace us with a still more serious
 “ decline. In these facts, our change of view of the bait traffic
 “ is but too well warranted, and we have abundant reason for the
 “ application of the remedy provided in the Bait Act. In
 “ furnishing our rivals with bait, we promote the evils we have to
 “ contend with, and our only course is to terminate this suicidal
 “ traffic.

“ We are but too conscious that, from the causes referred to,
 “ the condition of our trade awakens a sense of great anxiety at
 “ the present moment; while we have full trust in the future,
 “ if only permitted by Her Majesty’s Government to legislate as
 “ we see fit for the protection of what belongs to us. We regret
 “ we cannot safely accept your view of waiting to test by further
 “ experience the question how much longer and to what further
 “ extent our trade will bear up against the adverse influences
 “ that now prevail. Our ability to sustain ourselves against undue
 “ competition would be no argument for obliging us to contribute
 “ to its continuance, while the perils of such an experiment are
 “ too obvious to warrant its acceptance.

“ Her Majesty’s Government, in proposing that they should
 “ be the judges of the effect of our measures on our local interests,
 “ are not, we humbly submit, in a position to discharge that duty
 “ with safety or advantage. When it is suggested that, as regards
 “ our Bait Act, a consultation with the French may lead to a
 “ remedy being found in some other direction for the admitted
 “ evils, this proposal would appear to have originated with a want of
 “ knowledge of the situation. A free supply of bait to the
 “ French from our coasts means the effacement of our British
 “ trade, and the exodus of our population, and forbids all thought
 “ of possible equivalents. We, moreover, must decline respect-
 “ fully to accept the view that the French, or any other foreign

“ power, has a status or consultative claim in the control or disposition of our property, and we humbly demur to any recognition of their pretensions in this respect. We acknowledge no authority but that of the Imperial Government, and their rights of dominion are wisely limited by our constitutional powers, which secure for us the free exercise of our instructed intelligence in the management of our local affairs.

“ The decision of Her Majesty’s Government leaves us to deal with disheartening prospects for another year, the effects being already seen in the restriction and abandonment of proposed enterprise, but we cannot believe that any alleged difficulties will be allowed further to supersede the rights and mar the fortunes of the loyal people of this colony, struggling to maintain their position as an independent and honourable appendage of the British Crown.

“ ALEX. J. W. MCNEILY, *Speaker.*

“ House of Assembly, *Feb. 21, 1887.*”

A NEW BAIT ACT (1887) ALLOWED.

As the result of the active measures taken by the Government of Newfoundland, the Bait Act of 1887 was assented to, and immediately came into operation, with gratifying results. The exports from St. Pierre since the Bait Act came into operation have been as follow:—

In 1887	...	754,770	qtls. of 112 lbs. each.
„ 1888	...	594,529	„ „
„ 1889 (about)		300,000	„ „

During the same years the exports from Newfoundland have been as follow:—

In 1887	...	1,080,024	qtls. of 112 lbs. each.
„ 1888	...	1,175,720	„ „
„ 1890	...	1,076,507	„ „

By comparison of the above figures with those given on page 60, it will be perceived that in the first year of the operation of the Bait Act the exports of St. Pierre decreased 153,530 qtls., in the second year decreased 160,241 qtls., and in the third year decreased 294,529 qtls., or about 608,300 qtls. within three years, and had then reached a condition worse than for many previous years.

Part of the decrease of exports from St. Pierre was undoubtedly brought about by natural causes, for Newfoundland also felt the effect of these causes; but that some exceptional cause was also at work to decrease St. Pierre exports is apparent from the fact that in 1888 the decrease continued in St. Pierre in face of an increased export from Newfoundland, and also from the fact that in three years the total decrease of exports in St. Pierre has been equivalent to two-thirds of the catch of 1886, while the export of Newfoundland in 1889 was almost equal to that of 1887. The operation of the Bait Act was undoubtedly this exceptional cause, and, if additional proof be needed, the following quotation should be sufficient. :—

(Copied from the "*Petit Journal de Parisienne*," July 3rd.)

"ST. PIERRE AND MIQUELON,

" July 15th, 1889.

" Our colony is very severely tried this year; the cod fishery, " which constitutes its principal, we may say its only, industry, " has, up to this day, given deplorable results. During the first " trip, seven-eighths of the fishermen have barely paid for their " wine (drink); all have returned from this trip with an average " of from four to eight thousand fish—65 to 130 qtls.—for each " craft, which represents nearly nothing. The whole of this fish " has been sent to Bordeaux, and we have nothing left, and the " future prospects look almost like a complete failure; conse- " quently consumers at home will have to pay very dear for the " fish which they have hitherto been able to buy at a low price.

" The (*boette de capelan*) caplin bait is guarded by the " Newfoundland crieers: the schooners from St. Pierre are there- " fore obliged to go to the east coast, on the French shore of " Newfoundland (*qu* Quirpond, &c., &c.), in search of bait, " which means a month's fishing lost. At this present time the " French fisheries in the gulf (north coast of Newfoundland) are " threatened from all parts, and our *chefs de stations* have no " power to defend them, notwithstanding that they are located " on the territory ceded to France by the Treaty of Utrecht.

" The cod fishery, it is well known, gives employment to a " large proportion of the population of the *cotes de la manches*; " it is therefore very urgent that our Government should decide

“on taking such measures as will render the possibility of a continuation of these fisheries. Any delay would be prejudicial to our Navy, of which the most important source of recruiting is the *marine de commerce* (commercial navy), or fishermen bankers, &c., &c.”

THE FRENCH RETALIATE.

Smarting under the effects of the Newfoundland Bait Act, the French cast about for some source of bait supply not under the control of the colony, and this source they found to a small and unsatisfactory degree upon those parts of the coasts of Newfoundland over which they have treaty rights. But those parts of the coast are ice-bound at the commencement of the fishing season, and are so distant from the scene of French operations upon the Banks that to resort to them causes their fishing vessels much delay and expense. Attempts have therefore been made by the French to so establish persons upon the coasts aforesaid that they could obtain and carry bait for use by the bankers. A speech recently made in the French Chamber of Deputies contained an intimation of this fact, which shows why the French have so recently and so strenuously put forward claims to take and can lobsters upon the coasts of Newfoundland.

They do not wish the privilege of canning lobsters so much for its own intrinsic value as an adjunct to the catching of bait fishes, and as a weapon wherewith to prevent the otherwise certain destruction of their Bank fishery by the operations of the Newfoundland Bait Act. “If,” say the French, “we can combine lobster-packing with the industry of supplying bait to our bankers, they may hope to get over the effects of the Newfoundland Bait Act. And if we cannot profitably combine lobster-canning and bait-supplying, we can, at least, worry the people of Newfoundland into concessions to us in reference to bait.”

The question, then, as to the right of the British and French respectively to take and can lobsters is not alone important because of the value of that industry, but is of surpassing importance to Newfoundland especially, because in its solution is bound up to a large measure the success of her policy as regards the supply of bait, and therefore, also, the question of the prosperous existence of her people within her borders. If the right

to take and can lobsters upon the coasts of Newfoundland be conceded to the French, the effect of the Newfoundland Bait Act will be materially lessened; and upon the greater or lesser effect of that Act depends, in a most material degree, the future of England's "most ancient colony."

FRENCH NO RIGHT TO TAKE BAIT FROM "FRENCH SHORE."

It is contended upon the part of Newfoundland that the French have no right under the treaties to catch bait fishes upon the coasts of Newfoundland to be used as bait in the Bank fishery. The 13th Article of the Treaty of Utrecht (1713) conferred upon the French the liberty "to catch fish and to dry *them* on land." The 5th Article of the Treaty of Paris (1763) expressly restricted the French to an exercise of their right "conformably to the 13th Article of the Treaty of Utrecht." The 5th Article of the Treaty of Versailles (1783) provided that "the French fishermen shall enjoy the fishery which is assigned to them by the present article, as they had the right to enjoy that which was assigned to them by the Treaty of Utrecht." The Declaration of His Britannic Majesty which accompanied the Treaty of Versailles (1783) declared that "The 13th Article of the Treaty of Utrecht—and the method of carrying on the fishery which has at all times been acknowledged—shall be the plan upon which the fishery shall be carried on there. *It shall not be deviated from by either party*—the French fishermen building only their scaffolds, confining themselves to the repair of their fishing vessels, and not wintering there." The Treaties of Paris (1814 and 1815) confirmed the fishery rights of the French under previous treaties. Now it is contended—and no successful contradiction is possible—that to catch bait fishes upon the coasts of Newfoundland, and export them for use as bait upon the Banks, (1) is *not* catching fish and drying *them*; (2) is *not* the method of carrying on the fishery which obtained before the Treaty of Versailles; and (3) is a *deviation* from that method which the French agreed in 1783 to abide by. No bait fishes were ever taken from the Newfoundland coasts upon which the French have treaty rights to be used as bait upon the Banks, until the Bait Act of 1887 was called into force; and the catching and transportation of them in such a manner and for such a purpose is therefore an entirely

new industry. Undoubtedly the French have a right to catch bait fishes upon the coasts of Newfoundland over which they have fishery rights, to be used as bait in their fishery upon the said coasts, just as they have a right to cut wood for the construction of their stages and huts, for to do so is a necessity to the conduct of the fishery in the method which obtained prior to 1783. But, on the other hand, the French have no more right to take these bait fishes for use in the Bank fishery than they would have to take wood from Newfoundland to erect stages and huts in St. Pierre and Miquelon. As a necessity to that taking of fish (cod) permitted by the treaties, the taking of bait fishes is also permissible to the French under the treaties; and as a necessity to that drying of fish permitted by the treaties the cutting of wood is also permitted to them under the treaties; but as a necessity to a taking of fish in places not included under the treaties, and not contemplated by them, the taking of bait fishes should not be permitted any more readily than the cutting of wood to construct flakes and huts for a drying of fish in places not included under the treaties, and not contemplated by them. Would Newfoundland be expected to allow the French to cut wood upon its coasts, to erect flakes and huts in St. Pierre for the purposes of the Bank fishery, solely because the French have under the treaties a right to cut wood in Newfoundland to erect flakes and huts upon its own coast for the purposes of the fishery there? Assuredly not; and if not, why should a similar thing be expected of Newfoundland as regards her invaluable bait fishes? The French right of fishery upon the coasts of Newfoundland should be treated as a thing by itself apart, and as sufficient of itself to itself, not as a source of supplies by which the French are aided to compete with the people of the country from whose waters the supplies so used are drawn, and to whose people, thus competed with, those supplies would have wholly belonged but for concessions injudiciously made to the French a century and a half ago. Suppose, for argument's sake, that the French possessed an exclusive right of fishery upon the Banks, and, while refusing to the people of Newfoundland the privilege of participating in it, were to claim and exercise as they do now the right to take bait in Newfoundland waters, to carry on that

exclusive French fishery,—suppose such a state of affairs, we say, and then ask whether the manifest unfairness of it would not demand at the hands of the British Government such prompt and effective action as would confine the French to the exercise only of those rights which they could clearly and unmistakably prove to have been accorded to them by the treaties.

Practically, the position we have supposed as possible is to-day existent. The bounties given by the French nation to French fishermen would make competition with them upon the Banks by Newfoundlanders impossible unless their supply of bait could be prohibited or curtailed, and this prohibition at least is made difficult by the exercise of the French claim to take bait fishes upon the coasts of Newfoundland upon which they have treaty rights, and to use them in the Bank fishery. In such a dire emergency the people of Newfoundland turn to the Government of Great Britain, and to the people of Great Britain, and they ask that the French shall, at the very least, be strictly confined within the meaning of the treaties, that they shall not be permitted to exercise old rights in new ways, and that new rights shall not be conceded to them. Newfoundland does not ask favours in this matter, she does not seek offensive protective regulations, but she seeks defensive measures—she points to the unfair bounty-fed competition of a wealthy and powerful nation, and she appeals for fair play, for “fair trade,” for a chance to “live” as well as “let live.”

CHAPTER V.

SUMMARY AND CONCLUSION.

GENERAL PROPOSITIONS.

Having endeavoured to place before the public, as briefly as a due regard to the vital importance of the subject will permit, a statement of the facts connected with the origin and history of these French treaties and questions, of the present position of these facts and questions, and of the views of the colonists in relation to them, we believe that it will be convenient here to

sum up, as it were, the whole statement, in the form of a few leading and general propositions. We say, then—

1. That the sovereignty of the colony being in Great Britain, the treaties conferred upon the French only the right to catch fish, by which was meant cod-fish, and to dry them upon land, upon certain parts of the coast of the island.

2. That the French for many years contended for “exclusive” rights, both territorial and maritime, within the prescribed limits; but these claims were always, *on paper*, resisted by the Imperial authorities, who contended that the utmost the French could claim was the right *bona fide* to prosecute the fishery free from interruption by the competition of the British.

3. That for many years, while the French carried on the fishery on a large scale within their treaty limits, disputes upon the question of “exclusive” as against “concurrent” rights were frequent, and the cause of many quarrels between the fishermen of the two nations, and difficulties between the high contracting parties.

4. That although the Imperial authorities have, *on paper*, sustained the colonists in their contentions against the French claim to “exclusive” rights, yet in practice the colonists have not been sustained in the exercise of *their* rights; and that grievous wrongs and injustice have been continually inflicted upon the colonists by French fishermen, by French officers, and even by British officers at the instance of the French, in yielding to the unwarranted pretensions of the French, and in denying or failing to obtain redress for injuries committed upon British subjects.

5. That the methods or machinery employed for the enforcement of the treaties, or, as it is called, the “protection” of the people of the two nations in the exercise of their respective rights—viz., the employment of naval officers under “instructions”—have been entirely unsuitable and inadequate for their purpose. That there has been no statement or definition of the law for the guidance of the subject, no tribunal competent either to ascertain the facts of any given case, or to declare the law applicable to it, or possessing authority to afford a remedy.

6. That the facts and conditions existing at the time of the making of the treaties have been not merely changed, but entirely reversed. The French “floating” population which

once came annually to Newfoundland to prosecute the fishery have almost entirely disappeared, and no French have taken their places. The English "floating" population have long ago entirely passed away, and in their place have grown up a settled resident population. Settlement and government, which were then not only non-existent, but forbidden, have been established. The north and west coasts of Newfoundland, regarded and dealt with in the treaties as mere summer stations for fishermen from England and France, are now settled by British colonists, and known to be rich in agricultural, mineral, and lumbering resources, only awaiting development.

7. That the spirit and provisions of the treaties are utterly impossible of application to present conditions. That as between the fishermen of the two nations they can only be the occasion of constant quarrels, multiplying in number and increasing in bitterness; with no competent tribunal or authority to prevent quarrels, to punish the wrongdoer on the one side, or afford redress to the injured party on the other. That as regards lands of the colony within and adjacent to the treaty limits, the mere shadowy "rights" of user, conferred upon the French by the treaties, are the occasion of such doubt and insecurity in the tenure and title of property as to be an insuperable obstacle to settlement, to the investment of capital, and, consequently, to the utilisation or development of the riches of the soil, and the providing of the means of employment for our people.

8. That the parts of the colony directly affected by these hindrances are known to be rich in agricultural, mineral, and lumbering resources.

9. That the French "rights" of user of the land, which are the occasion of such incalculable loss and injury to the colony, are utterly valueless to the French, whose requirements for the purposes defined by the treaties would be, and now are, in fact, fully satisfied by the actual use or possession of *one* mile of coast out of the *seven hundred miles* which are now virtually locked up by the assertion of these supposed "rights."

10. That as regards the fishery rights of the French within the treaty limits, they have ceased to be of any, or of more than a very small, value; their fishery on the coast, the "French shore," having been almost entirely abandoned in favour of the more profitable and more convenient fishery on the Banks, which

lie to the southward of Newfoundland, which are common to all nations, and to the fishery upon which the treaties do not relate.

11. That the training of sailors for the French Navy, which was one of the most important purposes intended to be served by the treaties, has practically ceased to have any bearing upon the present question of French treaty rights in Newfoundland; the shore fishery within the treaty limits having, as stated, been almost entirely given up, and the training ground of sailors transferred to the Banks, the fishery upon which is carried on from France and St. Pierre, and is not affected by the treaties.

12. That, as following from the foregoing statements, the French "rights," as contemplated and provided by the treaties, while they are inflicting incalculable and increasing injury upon the whole colony of Newfoundland and her people, have practically ceased to possess any commercial, national, or even sentimental value to the French.

13. That the difficulties which at the present moment are so acute and portentous, are the outcome of the struggle now going on between the Newfoundlanders and the French in relation to *bounties* and *bait*, neither of which matters is dealt with or provided for by the treaties.

14. That the bounties given by the French nation upon French-caught fish exported to foreign markets, and brought into unfair competition with Newfoundland fish in those markets which until recently were supplied almost wholly from Newfoundland, entail enormous loss upon the colony and its people, and seriously threaten the very existence of its commerce, of which the cod fishery is almost the sole foundation.

15. That the colony has found that its only hope of preservation from the ruin threatened by the operation of these bounties lies in withholding from French fishermen the supply of bait which is indispensable to them for the prosecution of their Bank fishery, and which they can only obtain without serious loss from the territorial waters of Newfoundland over which they have no treaty rights; and that for these reasons Newfoundland has passed an Act under which the supply of bait to the French is, or may be, prohibited.

16. That the effect of the operation of the Bait Act has already been to seriously cripple the French fishing operations on the Banks, and largely to reduce their total catch.

17. That this prohibition of the supply of bait has been the principal, if not the sole, cause of the "lobster" difficulty. The claims of the French to erect and operate lobster factories on the coast, and to prevent our people from carrying on that industry, are not asserted for the sake of the value of the business, *per se*, to the French, for it really possesses none for them; nor for the reason that its prosecution by our people is a hindrance, or "interruption," to the French in their "fishery," within the meaning of the treaties. The lobster business is of importance to the French only as a lever by which (*i.e.*, by prohibiting Newfoundlanders from prosecuting the business, which is important and profitable to them) the French believe they can force them to terms in relation to the supply of bait.

18. That, in brief, having practically abandoned the fishery to which the treaties related, and taken to the Bank fishery, to which the treaties have no relation, and having developed that fishery by means of large bounties, to our injury and threatened ruin, they are using their shadowy and (to them) worthless "claims" or rights upon the land, and their still more baseless "exclusive" claims to the lobster business, as a means of compelling Newfoundlanders to furnish them with the supply of bait which is indispensable to the success of their unfair and bounty-fed competition.

THE ONLY POSSIBLE SOLUTION.

From this summary view of the whole situation, and from a practical as well as a legal standpoint, we hold as incontrovertible conclusions, that all attempts at a solution of the present difficulties—whether by arbitration, joint commissions, or other such expedients—by which the spirit of these old treaties is preserved, must be absolute failures, only keeping alive new disputes, every day increasing in frequency and acrimony; that the anomalies and hardships under which our people are suffering have become intolerable; that the utmost bounds of endurance on their part have been reached; and that there is but one practicable way of escaping from, or even of mitigating, the evil, and that is the termination of the treaty "rights" out of which all these hardships, anomalies, and unforeseen troubles have arisen.

When we speak of terminating these "rights," it is not to be

understood that we for a moment propose or suggest the repudiation or disregard of the treaties, or of any obligations arising out of them. That the French have undoubted rights under the treaties we neither dispute nor forget. Neither do we dispute or forget the fact that these rights still possess some value, though it has now become both absolutely and relatively small.

It is the clear and settled conviction of the whole people of the colony—the result of a long and bitter experience, and of a full knowledge of the whole subject—that upon no other basis than that of an entire extinguishment (of course upon some honourable and satisfactory terms) of French rights and claims in the colony of Newfoundland, can there be any solution of the difficulties which have now become so grave and acute; and, further, we have been specially instructed by the unanimous resolutions of public meetings held throughout the colony to say that to no “settlement” of the “French shore” question which does not contain this as an essential basis will the colonists agree.

We are unable to see, in the light of present facts, upon what grounds, either practical or sentimental, such a proposition, as a basis of settlement of differences, should be peremptorily rejected by the French. From a practical point of view such a basis of settlement would involve the loss of no advantage for which an adequate compensation cannot easily be found. The French fishery within the treaty limits is altogether insignificant, and of little or no value either as a fishery or as a training ground for sailors, both of which purposes are more fully and efficiently served by the Bank fishery than they ever were by the “French shore” fishery. And we are unable to understand, from the standpoint of mere sentiment, how either the prestige or *amour propre* of a great nation like the French could in any way suffer from an honourable and amicable adjustment, upon mutually advantageous terms, of disputes and differences arising out of arrangements made to suit conditions which have long ceased to exist, and which arrangements in themselves, as well as the failure of all attempts to adapt them to present conditions, are discreditable to both nations concerned.

BAIT AND BOUNTIES.

We anticipate the reply which will at once be evoked by a proposal to terminate, upon whatever terms as to equivalents, the French rights under the treaties. We expect that as a condition of such an arrangement the French would require an assurance that they would be secured in the right to purchase bait from Newfoundland for their Bank fishery. We do not assume to act as plenipotentiaries negotiating a treaty, but we can speak with confidence as to the position which would be taken by the people of the colony upon this point. Stated in plain terms, it would be to the following effect:—

“The prohibition of the supply of bait to the French was a policy which was forced upon us as a measure of self-preservation. It became absolutely necessary in order to avert the commercial ruin which was surely and rapidly coming upon the colony from the operation of the enormous bounties given by the French nation upon French-caught fish exported into markets formerly supplied by Newfoundland. If the necessity of this policy for self-preservation were removed by the discontinuance of the causes which created that necessity—viz., by the removal of the bounties, or by their permanent reduction to such an amount as would put the Newfoundlanders and the French upon fair terms as competitors for the sale of their fish—then the restrictions upon the supply of bait to the French would no longer be necessary, and would be removed. In other words, the Bait Act is the result of the bounties and inseparably connected with them; and the matter cannot possibly be dealt with, for any practical purposes, except upon a basis which recognises this as a fundamental principle.”

It is to be understood that we do not urge the abolition of the bounties as necessary to a solution of the “French shore” difficulties upon the proposed basis, viz., a termination of French rights under the treaties. We are only urging a solution of *those* difficulties, and particularly as the subject for *Imperial* initiative. We separate from the “question” arising out of the treaties the other questions of bounties and bait, the connection of which with that of the treaties, though important, is but incidental. If a solution of the “French shore” difficulties can be arrived at without reference to these questions of bounties

and bait, they may be left to be dealt with in the spheres, and by the people, to whom they more properly and strictly belong; the question of bounties being one pertaining to the fiscal or commercial policy of the French, and that of the Bait Act pertaining to the rights of the colony to legislate for the preservation and control of its own property. But from a business point of view, and for practical purposes, we recognise the possible interdependence of these several questions the one upon the other; and, anticipating the French position in relation to bait—in view of the fact that a provision for securing to the French a supply of bait necessary for their Bank fishery has always been insisted upon by the French—it is our opinion that in any final arrangement such stipulations must be included in relation to bait on the one hand, and bounties on the other, as may be considered just and necessary.

J. S. WINTER.

P. J. SCOTT.

A. B. MORINE.

APPENDICES.

A.

EXTRACTS FROM TREATIES BETWEEN GREAT BRITAIN AND FRANCE, RELATING TO THE FISHERIES.

Treaty of Utrecht—1713.

Article 13. The island called Newfoundland, with the adjacent islands, shall from this time forward belong of right wholly to Great Britain; and to that end the town and fortress of Placentia, and whatever other places in the said island are in the possession of the French, shall be yielded and given up, within seven months from the exchange of the ratification of this treaty, or sooner, if possible, by the most Christian King, to those who have a Commission from the Queen of Great Britain for that purpose. Nor shall the most Christian King, his heirs and successors, or any of their subjects, at any time hereafter, lay claim to any right to the said island or islands, or to any part of it or them. Moreover, it shall not be lawful for the subjects of France to fortify any place in the said island of Newfoundland, or to erect any buildings there, besides stages made of boards and huts necessary and usual for drying of fish, or to resort to the said island beyond the time necessary for fishing and drying of fish. But it shall be allowed to the subjects of France to catch fish, and to dry them on land, in that part only, and in no other besides that, of the said island of Newfoundland which stretches from the place called Cape Bonavista to the northern point of the said island, and from thence, running down by the western side, reaches as far as the place called Point Riche. But the island called Cape Breton, as also all others, both in the mouth of the River St. Lawrence and in the gulph of the same name, shall hereafter belong of right to the French and the most Christian King shall have all manner of liberty to fortify any place or places there.

Treaty of Paris—1763.

Article 5. The subjects of France shall have the liberty of fishing and drying on a part of the coasts of the island of Newfoundland, such as it is specified in the 13th article of the Treaty of Utrecht, which article is renewed and confirmed by the present treaty (except what

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relates to the island of Cape Breton, as well as to the other islands and coasts in the mouth and in the gulph of St. Lawrence); and his Britannic Majesty consents to leave to the subjects of the most Christian King the liberty of fishing in the gulph of St. Lawrence on condition that the subjects of France do not exercise the said fishery but at the distance of three leagues from all the coasts belonging to Great Britain, as well those of the continent as those of the islands situated in the said gulph of St. Lawrence. And as what relates to the fishery on the coast of the island of Cape Breton out of the said gulph, the subjects of the most Christian King shall not be permitted to exercise the said fishery but at the distance of fifteen leagues from the coast of the island of Cape Breton, and the fishery on the coasts of Nova Scotia or Acadia, and everywhere else out of the said gulph, shall remain on the foot of former treaties.

Article 6. The King of Great Britain cedes the islands of St. Pierre and Miquelon in full right to his most Christian Majesty, to serve as a shelter to the French fisherman; and his said most Christian Majesty engages not to fortify the said islands, to erect no buildings upon them, but merely for the convenience of the fishery; and to keep upon them a guard of fifty men only for the police.

Treaty of Versailles—1783.

Article 4. His Majesty the King of Great Britain is maintained in his right to the island of Newfoundland, and to the adjacent islands, as the whole were assured to him by the 13th article of the Treaty of Utrecht; excepting the islands of St. Pierre and Miquelon, which are ceded in full right by the present treaty to his most Christian Majesty.

Article 5. His Majesty the most Christian King, in order to prevent the quarrels which have hitherto arisen between the two nations of England and France, consents to renounce the right of fishing, which belongs to him in virtue of the aforesaid article of the Treaty of Utrecht, from Cape Bonavista to Cape St. John, situated on the eastern coast of Newfoundland, in fifty degrees north latitude; and his Majesty the King of Great Britain consents, on his part, that the fishery assigned to the subjects of his most Christian Majesty, beginning at the said Cape St. John, passing to the north, and descending by the western coast of the island of Newfoundland, shall extend to the place called Cape Ray, situated in forty-seven degrees fifty minutes latitude. The French fishermen shall enjoy the fishery which is assigned to them by the present article, as they had the right to enjoy that which was assigned to them by the Treaty of Utrecht.

Article 6. With regard to the fishery in the gulph of St. Lawrence, the French shall continue to exercise it, conformably to the 5th article of the Treaty of Paris.

Declaration of His Britannic Majesty.

The King, having entirely agreed with his most Christian Majesty upon the articles of the definite treaty, will seek every means which shall not only insure the execution thereof, with his accustomed good faith and punctuality, and will besides give, on his part, all possible efficacy to the principles which shall prevent even the least foundation of dispute for the future.

To this end, and in order that the fishermen of the two nations may not give cause for daily quarrels, his Britannic Majesty will take the most positive measures for preventing his subjects from interrupting in any manner, by their competition, the fishery of the French, during the temporary exercise of it which is granted to them upon the coasts of the islands of Newfoundland; but he will, for this purpose, cause the fixed settlements which shall be formed there to be removed. His Britannic Majesty will give orders that the French fishermen be not incommoded in cutting the wood necessary for the repair of their scaffolds, huts, and fishing vessels.

The 13th article of the Treaty of Utrecht, and the method of carrying on the fishery, which has at all times been acknowledged, shall be the plan upon which the fishery shall be carried on there. It shall not be deviated from by either party, the French fishermen building only their scaffolds, confining themselves to the repair of their fishing vessels, and not wintering there; the subjects of his Britannic Majesty, on their part, not molesting in any manner the French fishermen during their fishing, nor injuring their scaffolds during their absence.

The King of Great Britain, in ceding the islands of St. Pierre and Miquelon to France, regards them as ceded for the purpose of serving as a real shelter to the French fishermen, and in full confidence that these possessions will not become an object of jealousy between the two nations, and that the fishery between the said islands and that of Newfoundland shall be limited to the middle of the channel.

Given at Versailles, the 3rd Sept., 1783.

(L. S.)

MANCHESTER.

Counter Declaration of His Most Christian Majesty.

The principles which have guided the King in the whole course of the negotiations which preceded the re-establishment of peace, must have convinced the King of Great Britain that his Majesty has had no other design than to render it solid and lasting by preventing, as much as possible, in the four quarters of the world, every subject of discussion and quarrel.

The King of Great Britain undoubtedly places too much confidence in the uprightness of his Majesty's intentions not to rely upon his constant attention to prevent the islands of St. Pierre and Miquelon from becoming an object of jealousy between the two nations.

As to the fishery on the coasts of Newfoundland, which has been the object of the new arrangements settled by the two sovereigns, upon this matter it is sufficiently ascertained by the 5th article of the Treaty of Peace signed this day, and by the declaration likewise delivered to-day by his Britannic Majesty's Ambassador Extraordinary and Plenipotentiary; and his Majesty declares that he is fully satisfied on this head.

In regard to the fishery between the island of Newfoundland and those of St. Pierre and Miquelon, it is not to be carried on by either party but to the middle of the channel; and his Majesty will give the most positive orders that the French fishermen shall not go beyond this line. His Majesty is firmly persuaded that the King of Great Britain will give like orders to the English fishermen.

Given at Versailles, the 3rd of Sept., 1783.

(L. s.)

GRAVIER DE VERGENNES.

Treaty of Paris—1814.

Article 8. His Britannic Majesty, stipulating for himself and his allies, engages to restore to his most Christian Majesty, within the term which shall be hereafter fixed, the colonies, fisheries, factories, and establishments of every kind which were possessed by France on the 1st January, 1792, in the seas and on the continents of America, Africa, and Asia, with the exception, however, of the islands of Tobago and St. Lucie, and the Isle of France and its dependencies, especially Rodrigues and Les Schelles, which several colonies and possessions his most Christian Majesty cedes in full right and sovereignty to his Britannic Majesty, and also the portion of St. Domingo ceded to France by the Treaty of Basle, and which his most Christian Majesty restores in full right and sovereignty to his Catholic Majesty.

Article 13. The French right of fishery upon the Great Bank of Newfoundland, upon the coasts of the island of that name, and of the adjacent islands in the gulph of St. Lawrence, shall be replaced upon the footing in which it stood in 1792.

Treaty of Paris—1815.

Article 11. The Treaty of Paris, of the 13th of May, 1814, and the final act of the congress of Vienna, of the 9th of June, 1815, are confirmed, and shall be maintained in all such enactments which shall not have been modified by the articles of the present treaty.

B.

THE "MAGNA CHARTA" OF NEWFOUNDLAND.

DESPATCH FROM RIGHT HON. SECRETARY OF STATE, NO. 10, 26TH MARCH, 1857, TO GOVERNOR DARLING, ANNOUNCING THE ABANDONMENT OF THE CONVENTION WITH THE FRENCH GOVERNMENT, RELATIVE TO THE NEWFOUNDLAND FISHERIES, &C., &C.

[Copy.]

DOWNING STREET,

26th March, 1857.

SIR,—When her Majesty's Government entered into the Convention with that of France, 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 Reciprocity 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 authorised 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.

To GOVERNOR DARLING, &c., &c., Newfoundland.

C.

BAIT AND BOUNTY REPORT.

REPORT OF THE JOINT COMMITTEE OF THE LEGISLATIVE COUNCIL AND HOUSE OF ASSEMBLY, appointed to consider the subject of the capture and sale of bait, beg to report as follows:—

They find that from the earliest records extant relating to fisheries of Newfoundland, the immense importance of the bait supply has been appreciated by the Imperial and Local Governments. As far back as the year after the Treaty and Declaration of Versailles in 1783 (*i.e.*, in the 26th year of the reign of his gracious Majesty George III.), an Act was passed by the Parliament of England absolutely prohibiting, under penalties, any English subjects in Newfoundland from selling any bait whatsoever to foreigners. This Act remained in force for some years, and immediately after the concession of a Local Legislative Assembly to this colony the subject of bait supply to foreigners was again agitated, and in 1836 an Act was passed by the Colonial Legislature imposing an export duty of three shillings sterling a hundredweight upon "all fresh herrings and caplin, and upon salted or pickled herring or caplin," *exported* from this colony; and by a subsequent enactment (12 Vic., cap. 7), the restriction was repealed so far as it affected the importation of herrings (whether fresh, salted, or pickled) in bulk to any part of the British Dominions, the masters of the vessels in such cases being required to give bond for the payment of the amount of duties, which bond was only to be cancelled upon the production, within one year of the date thereof, of a certificate from competent

authority that the cargo had been duly entered and discharged at a port within the British Dominions. This enactment remained in force until the participation of the subjects of the United States in our fisheries, under the Reciprocity Treaty of 1854, necessitated its repeal. The extreme pressure exercised by the British on the Colonial Government from the expiry of the Reciprocity Treaty of 1854 down to the time of the Treaty of Washington alone prevented the passage of an Act in the colony prohibiting the sale and export of bait from the colony for any purpose whatever. The very stringent clauses of the treaty of 1818, preventing American fishermen from resorting to our bays or harbours, except "for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever," while freely allowing American vessels engaged in other pursuits the free use of our ports for all other purposes, plainly indicate the conclusion that it was then considered necessary to exclude the United States fishermen from any kind of access to our bait supply.

Whether the supply of bait fishes has decreased or is decreasing from their present extensive employment, the Committee have not sufficient data before them to positively decide; but it is the opinion of many of the oldest and most experienced persons engaged in our trade and fisheries that such is the case. That it is the opinion of the Legislature that the demands now made upon the supply is quite as great as it can bear is evidenced by the fact that the promising industry essayed here a few years ago of the manufacture of guano from these fishes was crushed out of existence by an Act of the Legislature prohibiting their capture for that purpose.

The value of these fishes to the colony, always highly appreciated, has of late years been greatly enhanced by the revival of the Bank fishery; for whereas bait is only one of several means employed in the Shore and Labrador fisheries for the taking of codfish—the jigger, the codseine, and the codtrap probably securing a much larger proportion of the total catch in these fisheries than that taken by bait—the sole dependence of the Bank fishery is on this article. The revival of the Bank fishery, therefore, renders it more than ever necessary that bait fishes should be zealously guarded.

The vast superiority of fresh over salted bait for use on the Banks has been satisfactorily established; and the testimony of United States and Canadian fishermen, taken before the Halifax Fishery Convention of 1877, leaves no other conclusion admissible. The advantages offered by our coasts, where alone these three bait fishes—the herring, caplin, and squid—can be obtained in sufficient quantity, in respect to bait supply to those prosecuting the fishery on the Banks and in the deep

waters in the vicinity of our island, are attested by the fact that the stipulation in the Washington Treaty most valued by the Americans was the privilege of taking that bait.

At present there does not appear to be any law on our Statute Book sufficiently safeguarding these valuable bait fisheries. The recent action of the French banking fleet in coming into the harbours of our south-west coast, where they have no fishery privileges, and evading the effect of our laws, heretofore found sufficient to prevent the exportation of bait before the 18th day of April, shows that, so far as that nation is concerned, we have no means at present of limiting or restricting the supply to them.

Our other rivals, the United States, stand on a different footing. The Treaty of 1818 forbids them entering our ports for the purpose of obtaining bait, and the Imperial Act of 59 George III., cap. 38, makes it unlawful, under severe penalties, for them to do so, but up to the present moment the means of strictly enforcing the observance of that treaty, and punishing the violation of the statute referred to, have not been provided, and American fishermen declare their intention of violating the treaty by obtaining bait in our ports.

The question then arises—Shall we permit the present position of affairs to continue, or shall we assert our undoubted and inalienable rights with regard to our inshore fisheries? To arrive at a just conclusion on this matter, it is necessary for us to examine the relations in which the two nations desirous of obtaining this bait supply from us stand to this colony.

The French fishery, in relation to ours, has undergone considerable change in recent years—seriously speaking, to our disadvantage. In the first place, to fish exported from St. Pierre to countries outside France, that is to say, to markets where it competes with ours, an average bounty of 10 francs per quintal (112 lbs. English) is at present paid by the French Government. Formerly this did not conflict with our interests, as the French bankers were equipped in France, and brought most of their produce back to France to be consumed there, leaving only a small portion for exportation from St. Pierre to the French West Indies. Consequently, Newfoundland rarely, if ever, found France a competitor in those markets to which we exported our fish.

Now, however, St. Pierre has become an extensive port of trade and of export for traders from other countries; and there is a large fleet of French bankers, and also a fleet sailing under the French flag, managed by French agents at St. Pierre, and owned to some extent by English and American subjects, employed in catching fish to compete with us in all the European markets. This increasing fleet of Bank fishers has an enormous advantage over our fishermen, from the fact that, in addition

to the bounty before referred to, they obtain food and goods of all kinds necessary for the fishery at St. Pierre, almost free of duty. While our fishermen are thus handicapped in the catching of fish, this fleet of bankers from St. Pierre obtain their supply of bait from our waters. The fish thus taken is landed at St. Pierre, and on its export receives from the French Government a bounty equivalent to about 10 francs for every 112 lbs. (English), 8 francs direct and about 2 francs indirect. The average price of Labrador fish, which is more especially competed with by French Bank fish, did not exceed in this colony, during the past season, 11 francs for 112 lbs. (English). It will thus be seen that the bounty as above, and differential duty on St. Pierre fish entering Spain under the most-favoured-nation clause in their tariff, amount to $12\frac{1}{2}$ francs on every 112 lbs. (English), or, in other words, to more than the whole value obtained by our fishermen for Labrador fish.

The United States fishermen have, since the year succeeding the signing of the Treaty of Washington, been allowed to obtain the bait unrestrictedly in our harbours and bays—the stipulation that they had the right to catch bait for themselves within the three-mile limit naturally carrying with it the corollary that what they had the right to take they had the right to buy, and the latter course was found by them to be the more profitable. For this privilege—for it was by far the principal one they exercised under the Washington Treaty—they paid a considerable sum of money, as well as admitted our fish duty free, and accorded to us the privilege of fishing on all the north-eastern coasts and harbours of the United States. They have now abrogated the Treaty of Washington, taken from us the privilege of fishing in their waters, and taxed our fish and oil when exported to the United States from 12 per cent. to 30 per cent., and yet assume to exercise, as of right, the privilege of obtaining bait as heretofore, when they gave us a fair return for that privilege. If we supinely assent to this course, we shall provide these, our rivals, with the means of shutting us entirely out of the United States markets.

The Committee have been informed that, unless the Legislature assent to the arrangement recently entered into between Great Britain and France, regarding the French claims on a part of the coasts of this island, any Acts prohibiting or regulating the export of bait fishes will be disallowed by the parent Government.

The Committee are unwilling to believe that such an extreme course would be adopted by the mother country, for no better reason than that a nation, supposed to be a friendly one, demands a concession from this colony which, if granted under the present system of French bounties, means starvation to our fishermen, ruin to our mercantile and

industrial classes, and bankruptcy to the colonial exchequer. The result that would ensue to Great Britain by thus sacrificing two hundred thousand British subjects in this most ancient and loyal colony, by a course of coercion exercised toward a people to whom self-government has long been accorded; a course, too, the principle of which has been most emphatically repudiated by all political parties in England, and by her most eminent statesmen, would be to duly increase the navy of a rival power, necessarily involving a corresponding addition to the British Navy, and increased taxation to the British taxpayer. The Committee are of opinion that, if the Legislature should be deterred from asserting, and, so far as may be possible, enforcing their undoubted rights, they would be assenting parties to the sacrifice of the vital interests of this colony; and, notwithstanding the threats held out on the part of France, and the expressed intentions of the American fishermen, the Committee believe that if we are true to ourselves, the cause of this colony, the cause of justice and right, must eventually be crowned with success.

The numerous petitions which have been referred to this Committee by the Legislature show that a large number of those who have been engaged in supplying bait to foreign fishermen, having seen the injury that is accruing to this colony, now ask that this traffic should be restricted. One district alone, that of Fortune Bay, appears to be desirous of continuing the trade in bait with St. Pierre, a trade which, so far as the imports in this colony are concerned, has been to a large extent illicit. It has defrauded the revenue, increased the burden of taxation on honest traders, and demoralised those who have taken part in it.

The Committee, therefore, recommend, in view of the fact that this colony is not at present possessed of suitable cruisers to forcibly carry out the treaty of 1818, and the Act of 59 George III., cap. 38, with regard to American fishing vessels, as is being done at present by the Dominion, that the Government should issue a proclamation, to be served on board all United States vessels engaged in the fishery and entering our harbours, prohibiting them from the use of our ports for any other purpose than the obtaining of wood and water, or for shelter while engaged in the fishery, and likewise prohibiting inhabitants of Newfoundland from trafficking in fish and bait with such vessels in any way; and that the authorities in such harbours as these vessels may enter should be required to note and report to the Government any infraction of such proclamation, which report, with a protest and claim for damages in each case, should be forwarded to the British Government.

And further, the Committee recommend that the Bill appended to

this report, relating to the export of bait, should be passed during the present session of the Legislature.

All of which is respectfully submitted.

A. W. HARVEY, Chairman.	ROBERT THORBURN,
JAMES S. PITTS,	A. F. GOODRIDGE,
M. MONROE,	A. M. MACKAY,
J. SYME,	A. BRADSHAW,
CHARLES BOWRING,	ELLIS C. WATSON.

COMMITTEE ROOM, *May 17th*, 1886.

D.

THE 1885 ARRANGEMENT REJECTED.

The Joint Select Committee appointed by the Legislative Council and the House of Assembly to consider the Arrangement proposed to be entered into by the Government of Great Britain and France relative to the Treaties between the two countries on the subject of the Newfoundland Fisheries, beg to report the following resolutions, which they respectfully submit for the consideration of the Legislature:—

Whereas her Majesty's Government have recognised in the most solemn manner the jurisdiction of the Government of this colony over the coastal fisheries and territory of Newfoundland and its dependencies, and have acknowledged that the said fisheries and territory cannot be alienated except with the consent of the Local Legislature, and have, by the despatch accompanying the arrangement of 1885, made between France and Great Britain concerning that part of our coast whereon the French have certain fishery privileges, further recognised as essential to the validity of the said arrangement its ratification by our Local Legislature,

And whereas the arrangement would place the French in possession of the principal harbours between Cape Ray and Cape John, to the practical exclusion of British fishermen from any of the fishing privileges of that coast,

And whereas the said arrangement gives jurisdiction to commanders of French cruisers in matters criminal as well as civil, to the disregarding of those principles and procedures to which as British subjects we are accustomed and entitled in tribunals of justice,

And whereas the French fisheries on our coasts are sustained and stimulated by an enormous bounty from the French Government to French fishermen, and our people are in consequence unduly burdened in their competition in foreign markets, to the almost complete exclusion of their fish products from the said markets,

And whereas this proposed arrangement seeks to assert, perpetuate, and legalise a claim to the purchasing of bait by the French in all the ports of this colony without any reservation of power on the part of the colony to restrict them by local legislation,

And whereas the great decline of late years of the inshore fishery of this colony has necessitated the turning of our attention to the Bank fishery and the economising of the supply of bait fishes, in which ample proof of a marked decadence has been shown within the past few years,

And whereas the power of restricting the supply of bait on our coasts to nations competing with our people in an industry which is the staple support of the colony is vital to the commercial existence of this country, which relies principally on its fisheries for the maintenance of its population,

And whereas no acceptable equivalent is ceded to this colony for those large and important concessions proposed to be made by us to the French by this arrangement,

Be it therefore Resolved,—That for the reasons hereinbefore set forth, and by virtue of that constitutional right which has been so often and so clearly admitted by her Majesty's Government to exist in the Legislature of this colony,

We do consider it our bounden duty, in the interests of her Majesty's loyal subjects in Newfoundland and elsewhere, to respectfully decline to assent to the arrangement now proposed for our ratification.

Respectfully submitted.

A. W. HARVEY, Chairman.
M. MONROE,
CHARLES R. AYRE,
J. SYME,
CHAS. CROWDY,
CHAS. BOWRING,
ROBERT THORBURN,
J. S. WINTER,

W. J. S. DONNELLY,
A. F. GOODRIDGE,
ALEX. J. W. MCNEILLY,
M. H. CARTY,
GEO. H. EMERSON,
ELLIS C. WATSON,
A. BRADSHAW,
H. W. LE MESSUIRER,

A. M. MACKAY.

COMMITTEE ROOM, *March*, 1887.

E.

WHY "LOBSTERS" NOT "FISH."

 JOINT ADDRESS OF LEGISLATURE, 1889, ON THE SUBJECT OF LOBSTER
INDUSTRY.

MOST GRACIOUS SOVEREIGN—

We, your Majesty's humble and devoted subjects, the Legislative Council and the Commons House of Assembly of Newfoundland, beg to approach your Majesty with an expression of our loyalty and devotion to your Majesty's person and throne.

Upon us, as branches of the Colonial Legislature, has devolved the duty of considering the subject of British rights and British claims on that portion of the coast of Newfoundland on which the French have certain fishery privileges in special reference to certain claims asserted by subjects of France in the year 1888, in respect to the taking and preserving of lobsters.

The claims of the French, in this behalf, have been now made for the first time.

The facts surrounding these new claims are set forth in certain correspondence, which has been brought before us as a Legislature, which correspondence has already been a matter of consideration for your Majesty's Ministers, and has formed a subject of diplomatic communication between your Majesty's Ministers and the Government of France.

This correspondence has reference to the grievances complained of by two of your Majesty's subjects, one Murphy and one Andrews, who, during the fishery season of 1888, were lawfully engaged in the prosecution of their business of taking and canning lobsters at a place called Hauling Point, in White Bay, on the north-east coast of Newfoundland.

In connection with this correspondence and the grievances complained of, we have had occasion to regard and make reference to the action of our Colonial Legislature on former occasions, in respect of the large issues which are involved in the present subject of consideration; and we have had to revert to the assurances of your Majesty, as, from time to time, given by your Majesty's Ministers in confirmation of positions asserted and maintained by this colony, as to the relative rights of British and French subjects on the coast of Newfoundland under treaties between the two great Powers.

In our present deliberations, we have been constrained to regard as

a prominent cause of difficulty these new claims, which in the case of Messrs. Murphy and Andrews seem to involve the consideration, not only of fishery rights, but also of territorial rights, which have hitherto been unquestioned.

The facts set forth before us, which in their material points are not the subject of the dispute, warrant us in the expression of the opinion that in this particular case, as in others, there has been displayed at times, on the part of Imperial authorities, a disposition to make undue concessions in fishery matters to the aggressive claims of the subjects of France, and to subordinate to politic or diplomatic exigencies the undoubted rights of British subjects.

In the case of Messrs. Murphy and Andrews, it is apparent that the French have asserted a right to take and can lobsters, and to erect upon British territory factories or establishments for the purpose of preserving lobsters.

With due devotion to your Majesty, we cannot too strongly affirm the position taken by this colony that the French have no right under any existing treaty to take lobsters for commercial purposes in any territorial waters of this island, and therefore, *à fortiori*, we humbly contend that the French are unwarranted in the erection of factories or establishments upon our coasts, for the purpose of canning lobsters taken in British waters for the purposes of exportation and sale. The claims asserted by the French in this behalf with all humility we vehemently deny.

We are constrained to regard with regretful resentment the fact that in the case under consideration, the removal of establishments erected by British subjects for the purpose of taking and canning lobsters has been enforced by subjects of France, at the instance of the French authorities, a French war-ship assisting and a British war-ship interfering to support the unwarranted contention of the French.

By reason of these unwarranted claims, and by this interference with the rights of your Majesty's subjects, much damage and loss have accrued, and we have reason to believe that many of your Majesty's subjects have been deprived of a means of subsistence for themselves and their families. We therefore regard with reasonable apprehension and alarm the probability of further encroachments upon the rights of your Majesty's subjects being made or attempted to be made by the subjects of France, the acquiescence in which encroachments must be disastrous to the interests of our people.

With all submission we are constrained to state to your Majesty our position that the claims of the subjects of France in respect of the taking and preserving of lobsters upon our coasts, and also their claims in respect of the taking of salmon, which latter claims have also been

a subject of our deliberations, are utterly without foundation, and cannot be maintained, and that the action of French subjects in this behalf has been in violation of treaty obligations and of international law, and that there has resulted therefrom a gross trespass upon the rights of British subjects, for which an exemplary compensation should be demanded from the Government of France.

Whilst we humbly submit to your Majesty, that our assertions of right, as your Majesty's subjects in this behalf, are unquestionable, we would further submit to your Majesty the irrefragable character of our conclusions by reference to the following facts:—

- (1.) Because it was declared by the Treaty of Utrecht that it should be unlawful for the French to erect buildings except those "*necessary and usual for drying of fish.*"
- (2.) Because the Treaty of Paris (1763) restricted the liberty to "*fishery and drying.*"
- (3.) Because the Treaty of Versailles (1783) speaks of "*the fishery assigned to them by the Treaty of Utrecht.*"
- (4.) Because the declaration speaks of "*the fishery*" and "*the method of carrying on the fishery which has at all times been acknowledged shall be the plan upon which the fishery shall be carried on there.*"
- (5.) Because the French King's counter declaration speaks of "*the fishery on the coast of Newfoundland, which has been the object of the new arrangements.*"
- (6.) Because the Treaty of Paris (1814) declares that the French right of fishery "*shall be replaced upon the footing in which it stood in 1792.*"
- (7.) Because there was no such industry as the lobster fishery in Newfoundland at any of these periods, and no such industry was heard of until within a few years past, and the language used to describe "*the fishery*" which the French were entitled to pursue is utterly inapplicable to lobster-catching, or the erection of factories for taking or canning lobsters.

Having regard to all the facts referred to and the necessary deductions relating therefrom, we are led to the expression of opinion, that in this matter, that is to say, in the assertion and protection of the rights of your Majesty's subjects in Newfoundland against the aggressive and unwarranted claims of French subjects, and for the avoidance of discord, tumult, and disturbance between the subjects of the two great Powers, it is necessary that some firm and vigorous action should be taken by the colony with the co-operation and active assistance of your Majesty's Government.

We humbly submit that such action should have special reference to the following points :—

- (1.) To the protection of British fishermen in the prosecution of their lawful avocations as regards the lobster fishery.
- (2.) To the resistance to the claims of the French, now first asserted, in respect of this new industry.
- (3.) To the removal of all lobster factories or buildings in connection with the lobster fishery, erected by French subjects upon Newfoundland territory.
- (4.) To the assertion and protection of the right of British subjects to the use of British territory in Newfoundland for agricultural, lumbering, or mining purposes, without the interruption, molestation, or interference of the French under any pretended treaty claims.

For the causes herein set forth, and with the grievances herein complained of, we, your Majesty's dutiful and loyal subjects, do therefore approach your Majesty with the humble prayer that your Majesty will be pleased to take the same into gracious and favourable consideration, that your Majesty will cause the same to be brought to the notice and consideration of your Majesty's Ministers, that your Majesty will graciously cause such action to be taken as shall lead to the removal of all lobster factories, or establishments, or buildings, connected with the lobster industry, erected by the French upon the territory of Newfoundland, and to the prevention of any such erections in future; and that your Majesty will be graciously pleased to cause it to be an instruction to the commanders and officers of your Majesty's ships, engaged in the protection of the fisheries upon the coast of Newfoundland, that they shall be aiding and assisting your Majesty's subjects in this island, in the prevention of interference by the French with the prosecution of any lawful industries enterprised by British subjects in Newfoundland.

Deign to accept, Most Gracious Sovereign, our profoundest expression of loyalty and affection.

Passed the House of Assembly, 1st June, 1889.

ALEX. J. W. McNEILLY, *Speaker.*

Passed the Legislative Council, 1st June, 1889.

E. D. SHEA, *President.*

F.

A DIPLOMATIC REPLY.

REPLY BY SECRETARY OF STATE TO LEGISLATURE'S JOINT ADDRESS.

[Copy, Newfoundland, No. 67.]

DOWNING STREET,

9th Nov., 1889.

SIR,

I have the honour to acknowledge the receipt of your despatch, No. 34, of the 1st June last, enclosing a joint address to the Queen from the Legislative Council and House of Assembly of Newfoundland, relating to matters connected with the Newfoundland fisheries.

This address, after alluding to the case of the removal last year of Messrs. Andrews and Murphy's lobster factory at White Bay, and referring to various clauses of the treaties and engagements bearing upon the rights given to the French fishermen, proceeds as follows:—

“ Having regard to all the facts referred to, and the necessary
 “ deductions resulting therefrom, we are led to the expression of opinion
 “ that in this matter, that is to say, in the assertion and protection of
 “ the rights of your Majesty's subjects in Newfoundland as against the
 “ aggressive and unwarranted claims of French subjects, and for the
 “ avoidance of discord, tumult, and disturbance between the subjects of
 “ the two great Powers, it is necessary that some firm and vigorous
 “ action should be taken by the colony with the countenance, co-
 “ operation, and active assistance of your Majesty's Government.

“ We humbly submit that such action should have special reference
 “ to the following points :

- “ (1.) To the protection of British fishermen in the prosecution
 “ of their lawful avocations as regards lobster fishing.
- “ (2.) The resistance of the claims of the French, now first asserted,
 “ in respect of this new industry.
- “ (3.) To the removal of all lobster factories or buildings in connec-
 “ tion with the lobster fishery, erected by French subjects upon
 “ Newfoundland territory.
- “ (4.) To the assertion and protection of the rights of British
 “ subjects to the uses of British territory in Newfoundland
 “ for agricultural, lumbering, or mining purposes, without the
 “ interruption, molestation, or interference of the French under
 “ any pretended treaty claims.”

I have to request that you will inform the Council and Assembly that their address has been laid before the Queen, who was pleased to receive it very graciously, and with respect to the points referred to above, to which particular attention has been called, that you will state to them with regard to point 1, that the instructions given to the naval officers are framed with the view of the proper protection of British fishermen in the prosecution of their lawful fishery, but that the question whether the establishment of lobster factories on shore is consistent with the engagements with France is now the subject of discussion between the two countries, and that no further instructions can at present be given on this subject; that the Council and Assembly are aware that the British declaration of 1783 declares that in order that the fishermen of the two nations may not give cause for daily quarrels, his Britannic Majesty will take the most positive measures for preventing his subjects from interrupting in any manner by their competition the fishery of the French during the temporary exercise of it which is granted to them upon the coasts of Newfoundland, and he will for this purpose cause the fixed settlements which shall be formed there to be removed. It is evident, therefore, that the fishery of British fishermen, whether lobster or otherwise, must be carried on subject to the above restriction as to the non-interruption of the French fishery.

You will apprise the Council and Assembly with reference to points 2 and 3, that the pretensions of the French in regard to the lobster fishery and the erection of lobster factories on shore are disputed by her Majesty's Government, who, however, trust that some understanding may be arrived at with the French Government between the present time and the opening of the next year's fishery season, and that her Majesty's Government altogether deprecate any action such as is suggested whilst the matter is the subject of diplomatic negotiation. With reference to point 4, her Majesty's Government can only return an answer to the memorialists similar to that given to a recent memorial from the inhabitants of the west coast of Newfoundland, which was transmitted in the Governor's despatch of the 16th of March last. These memorialists, amongst other things, request free access to the coast for the purpose of mining, shipbuilding, and all other operations, and grants of land unhampered by certain conditions which were then referred to.

The reply given to the memorialists as to free access to the coast for mining operations was to the effect that this matter was to a great extent dealt with in the arrangement of 1885, which, much to the regret of her Majesty's Government, was rejected by the Newfoundland Legislature; that until some fresh arrangement should have been made

with the French in the matter of the fisheries, *such free access as is desired for the purposes mentioned could not be given by her Majesty's Government*; and with respect to the question of the issue of grants of land *unhampered by the conditions subjecting such grants to a reservation in favour of French rights*, the memorialists were informed that her Majesty's Government regretted that THEY WERE UNABLE IN THE PRESENT POSITION OF THE FISHERY QUESTION TO MEET THE WISHES OF THE MEMORIALISTS. The memorialists were, however, assured that any favourable opportunity which might present itself for arriving at a settlement with the Government of France on the general question of the fisheries would not be neglected by her Majesty's Government.

I have the honour to be, Sir,

Your most obedient and humble servant,

(Signed) KNUTSFORD.

G.

THE "MODUS VIVENDI" CORRESPONDENCE.

COPY OF TELEGRAPHIC CORRESPONDENCE BETWEEN THE RIGHT HON THE SECRETARY OF STATE FOR THE COLONIES AND HIS EXCELLENCY THE GOVERNOR.

Secretary of State to Governor, 7th December, 1889.

Her Majesty's Government desire to consult with Whiteway on subject of fishery. When can he leave for this country early in the year?

Governor to Secretary of State, 9th December, 1889.

Executive Council tender resignation, and Whiteway assumes office at the beginning of next week. He informs me that it is quite impossible for him to leave until his administration gets into working order. He desires to know what will be probable fishery question under consideration, so as to discuss the question in consultation with his colleagues before his departure.

Secretary of State to Governor, 16th December, 1889.

In answer to your telegram of 9th December, Her Majesty's Government desire to consult with Whiteway generally on the subject

of the present state of affairs fishery question, more especially lobsters, with the object of determining whether it is possible to submit to arbitration French claims to lobster fishery, and to consult with him as to terms of reference; also, to consult as to Bait Acts and marking of fishing boats. When can he probably leave early in the year?

Secretary of State to Governor, 23rd December, 1889.

Referring to my telegram of 16th December,—Desire to be furnished with earliest possible information as to Whiteway's probable date of departure. Naval officers must be brought home.

Governor to Secretary of State, 24th December, 1889.

Whiteway cannot leave until about the end of March—perhaps not before the end of the Session.

Secretary of State to Governor, 29th January, 1890.

An agreement is proposed with the Government of France for a *modus vivendi* during the coming fishing season, which will give more time for negotiations on the lobster factory difficulty—namely, that there shall be no alteration in the position of British lobster factories or grounds as existing on 1st July last year; and the French Government agree that they will undertake to grant no new lobster fishing concessions this year on fishing grounds occupied by British subjects on or before 1st July last year. In case of any competition in the same locality, the naval commanders on the station will be authorised to make a temporary arrangement delimitating the boundaries of their respective fisheries. All questions as to rights are reserved by both nations.

Governor to Secretary of State, 30th January, 1890.

Am I correct in assuming that the agreement provides that the English may not establish any new factories this year, but that the French are permitted to do so provided that the ground they select was not occupied by the English previous to 1st July last?

Secretary of State to Governor, 8th February, 1890.

Referring to your message of 30th ult.,—The proposed *modus vivendi* recognises for this season only the lobster factories of both countries as they existed on 1st July last. Factories may, however, be transferred to other localities, if approved of by the naval officers of both nations. No new concession for lobster catching to be conceded this year by either Government. This is strictly provisional, and only for this season.

Secretary of State to Governor, 12th February, 1890.

It is absolutely necessary that an answer respecting the *modus vivendi* should be given to the French Government immediately. Reply must be given by the day after to-morrow.

Governor to Secretary of State, 12th February, 1890.

I only received your telegram of 8th inst. late on Saturday night, and submitted it to a special meeting of Executive Council on Monday. I find that no law exists prohibiting the erection of lobster factories, and it is stated that several are now in course of construction. I have telegraphed for information, and after a meeting of Council will again telegraph to your Lordship to-morrow.

Governor to Secretary of State, 13th February, 1890.

My Ministers strongly contest the French claims to lobster fishing, but desire to meet the wishes of Her Majesty's Government as to a *modus vivendi* for this season only. They desire that the proposed date may be extended to the 1st January last, otherwise great hardship must ensue, as a large amount of money has been invested in erecting new factories.

Governor to Secretary of State, 15th February, 1890.

I had been told before I sent my last telegram to your Lordship that about nine new factories were commenced. But I have learned since then that more are begun or contemplated. There is great difficulty in obtaining information, so I cannot give definite numbers, but should estimate about twenty, though how far they have progressed I cannot say.

Governor to Secretary of State, 5th March, 1890.

Is it desirable to refer to the *modus vivendi* with the French Government in my Speech at the opening of the Legislature on 7th March?

Secretary of State to Governor, 6th March, 1890.

You may mention in your Speech that negotiations are in progress between the Governments of Great Britain and France for a settlement of questions that have arisen with regard to the rights of the subjects of the two nations respectively to catch and preserve lobsters on that part of our coast where the French have a concurrent right of fishery, and it is hoped that a provisional arrangement for the present season may be arrived at, and ultimately a final solution of the difficulty.

Secretary of State to Governor, 12th March, 1890.

Following is the text of *modus vivendi* as agreed to (here insert text already communicated to the House). Give publicity to the foregoing.

Governor to Secretary of State, 14th March, 1890.

My Ministers strongly protest against what would in *modus vivendi* appear to be an admission of concurrent rights of lobster fishing, and they are of opinion that this arrangement will be prejudicial to the position of Newfoundland in future negotiations. They further contend that the Imperial Government should bear the expense of the losses of those who have established factories since date of 1st July. They consider that, as this *modus vivendi* has been concluded without their concurrence, it is not for them to advise as to giving notice to those whom it may concern.

Governor to Secretary of State, 15th March, 1890.

Forwarding the resolutions passed by both Houses of the Legislature—without comment.

Secretary of State to Governor, 18th March, 1890.

Referring to your telegrams of 14th and 15th March,—I fear adoption of reported resolutions will not improve the prospects of an ultimate settlement most favourable to British claims. There is some misapprehension in supposing that any British territorial rights are prejudiced by *modus vivendi*, or any French right admitted. All questions of principle and of respective rights on both sides are stated expressly to be reserved. Neither Her Majesty's Government nor the Colonial Legislature have power of declaring what are British and French rights respectively; and provisional arrangement is necessary for next season.

Secretary of State to Governor, 18th March, 1890.

Referring to my telegram of to-day, lobster fisheries,—It seemed open to doubt whether as regards permanent settlement the interests of Newfoundland would best be served by compromise or arbitration, but the strong conviction entertained by the colony as to the incontrovertible nature of their contentions clearly points to arbitration. On learning that your Ministers agree, Her Majesty's Government will at once take steps to push on negotiations for this purpose. No doubt that Newfoundland will prefer to prepare its own case, but every assistance will be given by those who have studied original corre-

spondence here. Question had better be limited to lobster fishery. Terms of reference and choice of arbitrators will require every consideration.

Governor to Secretary of State, 20th March, 1890.

My Ministers raise question, whether under *modus vivendi* French have right of erecting as many factories as they desire by authority from naval officers; or are naval officers limited to granting permission to French to erect factories only to equivalent number erected by British since 1st July, 1889? or if British do not erect new factories after that date, can the French erect a single factory?

Secretary of State to Governor, 24th March, 1890.

Referring to your telegram of 20th March,—A new factory of either nation can be erected only if both naval officers commanding, consent. *Modus vivendi* enables, but does not compel, two naval officers commanding to limit new factories to exactly equal numbers on each side. We agreed to amendment as to new factories, believing that such latitude desirable, as French new factories very unlikely to be so many as reported commenced by British. If your Ministers give preference to strict maintenance of *status quo ante*, 1st July, 1889, prohibiting any new factory of either nation, we believe that French Government would probably agree, but early notice desirable. In that case, or if informed of exact number of proposed new British factories, French Government would probably limit their preparations accordingly, and friction might be avoided, but they would not consent to British having all the best places, and make a stand for equal advantage of site.

Governor to Secretary of State, 22nd March, 1890.

House of Assembly ask for production of all correspondence regarding lobsters during the last four years. May I produce all or any confidential despatches.

Secretary of State to Governor, 25th March, 1890.

Referring to your telegram of 22nd March,—Will inform you as soon as possible, after consultation with Secretary of State for Foreign Affairs, what papers can be published. It is necessary to inform French Government before publishing any of their notes.

Governor to Secretary of State, 24th March, 1890.

Following telegram received from London published by Opposition daily paper:—"Under Secretary of State for Foreign Affairs states that

“ present Newfoundland Government was consulted and terms of *modus vivendi* were modified to their views.” Great indignation expressed against my Ministers in consequence of publication of this alleged statement, and public meetings are being convened in all parts of the country—impossible to say what will be the probable result of present excitement. My Ministers, since first intimation, strongly protested against *modus vivendi* telegraphed by you as concluded with the French Government, and they now request official denial of statement of Under Secretary of State. Answer urgently required.

Secretary of State to Governor, 25th March, 1890.

Referring to your telegram of 24th March,—Statement incorrect. Who telegraphed it? Answer of Under Secretary of State for Foreign Affairs was as follows :—“ The Newfoundland Government was consulted as to the terms of the *modus vivendi*, which was modified to some extent to meet their views; but it was necessary to conclude it without referring it to them in its final shape.”

Governor to Secretary of State, 25th March, 1890.

My Ministers request that incorrect statement made by Under Secretary of State for Foreign Affairs be immediately contradicted, as the terms of *modus vivendi* were not modified in accordance with their views. Ministers protested against any claims of French, and desired time to be changed to 1st January for reasons given; but that was ignored and *modus vivendi* entered into without regard to their wishes. Ministers much embarrassed by incorrect statement made by Under Secretary of State.

Secretary of State to Governor, 28th March, 1890.

Referring to your telegram of 26th March,—Answer of Under Secretary of State for Foreign Affairs was correct, and cannot be contradicted. See my telegram of 25th March. He did not state that *modus vivendi* was amended in accordance with your Ministers' views, and showed distinctly that your Ministers were not responsible for *modus vivendi* as settled. They can, of course, quote his real answer and state what they desired, and that though their wishes were not ignored, it was impossible to fully give effect to them. Facts are as follows :— On receiving request that date might be changed to 1st January, 1890, we attempted to arrange for this, but French Government refused. After much discussion, and with great difficulty, we carried clause as to new factories, in order to avoid as far as possible necessity for wholesale removal, which it was stated by you would create soreness and discontent.

Governor to Secretary of State, 27th March, 1890.

Joint Committee of both Houses of Legislature appointed to frame address on *modus vivendi*. Ministers request that your Lordship's telegram of 24th March, in which possibility of date alteration suggested, be communicated to Committee.

Secretary of State to Governor, 29th March, 1890.

Referring to your telegram of 27th March,—In my telegram of 24th March I did not suggest possibility of any alteration in date, but that French Government might agree to maintenance of *status quo ante* 1st July, 1889. You should give it to Committee, and all telegraphic correspondence respecting *modus vivendi*, with the exception of my confidential message of 28th March, and it is most desirable that before framing address they should await arrival of my despatch of 21st March, now on the way, giving account of negotiations.

H.

PUBLIC ACTION IN NEWFOUNDLAND.

RESOLUTIONS ADOPTED AT A MASS MEETING OF CITIZENS OF SAINT JOHN'S, NEWFOUNDLAND, HELD IN BANNERMAN PARK, ON THE 26th March, 1890.

First Resolution.

Whereas the negotiations leading to the adoption of the *modus vivendi* between her Majesty's Government and the Government of France were commenced, and carried on, and the arrangement itself concluded, without the consent, and even without the knowledge of the community or Legislature of this colony;

And whereas it is a fundamental principle of responsible government that the people shall directly, or through their representatives in Parliament assembled, be consulted concerning all matters appertaining to their Government, and more especially to their territorial and maritime rights;

And whereas the application of this constitutional principle to this colony has been especially guaranteed by her Majesty's Government in a despatch bearing date the 26th day of March, A.D. 1857, stating "that the rights enjoyed by the community of Newfoundland are not to be ceded or exchanged without their consent, and that the constitutional mode of submitting measures for that consent is by laying them before the Colonial Legislature," and "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 ” :

Be it therefore Resolved,—That the commencement, continuation, and conclusion of the negotiations for the *modus vivendi* without the knowledge and consent of the community or Legislature are in direct violation of our constitutional rights, and of the particular engagement with the people of Newfoundland which her Majesty’s Government voluntarily made; against which violation we record our most earnest protest, and to which we as a free people will never consent.

Second Resolution.

Whereas the claims put forward by the French (1) to catch and preserve lobsters, (2) to erect lobster factories, and (3) to exclude our people from the prosecution of that industry, on certain parts of our coasts, are utterly without foundation or show of reason ;

And whereas the exercise of such claims involves, in its consequences, not only directly the deprivation of our people of a valuable maritime industry, but also indirectly the settlement of a new French population with a permanent footing upon our soil, the locking-up of the territorial resources of the colony, the extinction of every valuable industry and source of wealth to our people, and the virtual transfer of the sovereignty of the soil to a foreign power ;

And whereas the terms of the so-called *modus vivendi* not only accord to these unfounded pretensions the force and status of *bona fide* and reasonable claims, but confer upon the French the immediate actual possession and enjoyment of rights, territorial and maritime, to which these claims relate ;

And whereas these concessions, fraught as they are with dangers and consequences to our most sacred rights and most vital interests, so stupendous and far-reaching, are entirely incompatible with the proper and effective maintenance of that position which unquestionably belongs of right to this colony and its people ;

And whereas the terms of the present arrangement clearly point to some contemplated settlement of disputes with the French, and in which their claims not only to further fishing privileges on our coasts, but to the permanent occupation and sovereignty of the soil, will be or may be conceded ;

Therefore Resolved,—That for these further reasons, this meeting indignantly protests against the making of this arrangement; that the claims now set up by the French in relation to the lobster fishery ought to have been met only by an absolute and unqualified denial; and that to no arrangement, either for arbitration or otherwise, involving even the consideration of any possible right or claim on the part of the

French to catch and preserve lobsters on our coast, to erect factories on our soil, or to hinder or interfere with our people in the prosecution of that industry, will we ever give our consent.

Third Resolution.

Whereas it is apparent that development of the great natural internal resources of this colony is necessary to provide its inhabitants with the means of livelihood, and to stay the tide of emigration from our shores ;

And whereas railways projected in order to promote the development of these resources, and necessary thereto, will entail great burdens upon the people of the colony ;

And whereas that portion of the island upon the coast of which the French have certain fishery rights is rich in agricultural, mining, and lumbering capabilities ;

And whereas the rights and claims of the French upon that coast are enforced in such manner as to prevent the development of those great resources by the inhabitants of the colony, grants of land and minerals being given "subject to French treaty rights," whereby capitalists are prevented from investing ;

And whereas the presence of French fishermen upon our coast, and their denial of our concurrent right to fish for cod, and of our exclusive right to take lobsters, give cause for daily quarrels in the fishing season, and much oppress our fishermen ;

And whereas the treaties under which the French have rights and set up claims were undeniably framed more than a century ago, solely with a view to the exigencies of the Kingdom of Great Britain and Ireland, and without regard to the condition of affairs which time has brought about in this colony :

Be it therefore Resolved,—That it is absolutely necessary to the prosperity of the inhabitants of this colony that the last vestige of French rights shall be removed ;

That it is the imperative duty of the British Government to relieve us of the burden placed upon us by the same agency so many years ago, and under which we have so long suffered ;

That no arbitration or other arrangement should be entered into between the British Government and the Government of France, which does not have as a basis that French claims to territorial and maritime rights in this colony are to be totally extinguished ;

And that the Legislature and the Government of this colony should never consent to the commencement, prosecution, or conclusion of any arrangement which does not have the aforesaid condition as "the essential preliminary."

Fourth Resolution.

Whereas it is desirable that united action of the people of Newfoundland should be had in protecting the rights of this colony against the encroachments of the French ;

Resolved,—That the committee who have had charge of the arrangements of this meeting shall have power—

- (1.) To invite the co-operation of the people of the outports ;
- (2.) To prepare a memorial to her Most Gracious Majesty the Queen, and to both Houses of Parliament, in accordance with the foregoing resolutions ;
- (3.) To choose delegates to present said memorials, and to place our case before the people of Great Britain and Ireland and the British Colonies ;
- (4.) To adopt such further measures as may be deemed advisable for the promotion of the objects of this meeting.

MEETINGS IN PARTS OF THE ISLAND.

LITTLE BAY, *March 25.*

A large and enthusiastic meeting was held here last night. The Revd. S. O'Flynn acted as Chairman. The Revds. Pittman and Manning, Mr. White, and other prominent men were on the platform. The following resolutions were unanimously adopted amid cheering :—

Whereas certain rights relative to the fisheries on portions of the coast of Newfoundland were granted to the French by treaties made over a hundred years ago ;

And whereas the circumstances under which the treaties were made, and the conditions now existing, are so changed by the increase of population and the development of our industrial pursuits, that the further continuance of these treaty rights is incompatible with the welfare and prosperity of this colony ;

And whereas it has become known that a *modus vivendi* has been entered into without the consent of this colony ;

Be it Resolved,—That this meeting unanimously protest against the invasion of their constitutional rights, and that the colony should have a voice in any agreement made.

Be it also Resolved,—That this meeting is unanimously of opinion that the above-mentioned treaties should be terminated, and that the whole territorial and maritime rights of the whole coasts of Newfoundland should belong solely to the people of Newfoundland.

BURIN, *March 25.*

Spontaneous gathering at Court House last night on subject lobster *modus vivendi*. Bishop chairman; Flynn secretary. Great indignation and strong resolutions adopted. Mass meeting Wednesday; monster petitions preparing.

HERBERT SMITH.

BAY OF ISLANDS, *March 24.*

Enthusiastic meeting held to-day, petition to House signed by every one present. Two resolutions passed. First I send:

Whereas we have heard of recent arrangement made between the British and French Governments without the consent of this colony relative to the lobster fishery and the establishment of French lobster factories on this coast: It is unanimously resolved that this meeting most indignantly protests against the unprecedented invasion of our rights as British subjects on this coast.

REV. F. W. COLLEY,
Chairman Public Meeting.

CARBONEAR, *March 22.*

A meeting of the citizens of Carbonear was called on Saturday in the Court House by our worthy Stipendiary Magistrate, at the request of a number of our leading men, to protest against the *modus vivendi* thrust upon us by the home Government. The Court House, however, proved to be too small to accommodate the people, so it was held in the open air.

The Hon. John Rorke was called to the chair.

The Chairman read a letter from the Rev. F. D. McCarthy, regretting his inability to be present, but heartily agreeing with the object of the meeting, and vigorously protesting against the concessions that had been made to the French.

The Rev. Geo. Boyd and Capt. J. Keneally made stirring speeches in condemnation of the *modus* (of killing out Newfoundland). Other speakers also were both grieved and indignant at the treatment received at the hands of the Imperial Government, but they believed the British people would not stand by and see us wronged if we appealed to them.

The following are the resolutions adopted, with their proposers and seconders:—

Proposed by Mr. John E. Pike, seconded by Capt. Fitzgerald—

Resolved,—That this mass meeting of the citizens of Carbonear has learned with feelings of amazement and alarm that an arrangement relative to the establishment of lobster factories on the north-east and west coasts of Newfoundland has been entered into between the British and French Governments.

Proposed by Mr. Jos. Udell, seconded by Mr. W. C. Hawker—

Resolved,—That this arrangement has been made without the knowledge or consent of the people of Newfoundland, and is in direct violation of those constitutional principles which vest in the colony the complete control of its territorial and maritime rights—rights acknowledged and confirmed in a despatch from her Majesty's Government, bearing date March 26th, 1859.

Proposed by Rev. Geo. Boyd, seconded by Capt. Keneally—

Resolved,—That dual control of any portion of Newfoundland will prove a source of continual irritation and of extreme danger both to Imperial and colonial interests.

Proposed by Mr. Jos. Maddock, seconded by Mr. H. B. Peach—

Resolved,—That the principles of the *modus vivendi*, granting, as they do, permission to the French to erect permanent buildings on the coasts of Newfoundland, are in direct opposition to the rights secured to the colony by treaty.

KING'S COVE, *March 22.*

The people of King's Cove and its vicinity cordially sympathise with the object of the meeting held in St. John's, relative to the French shore question, and protest strenuously against any concessions to the French as regards lobster factories without consent of colony.

WM. KIBBY,
WM. VEITCH,
D. A. RYAN, J.P.,
JOHN G. HART,
JOHN McGRATH, J.P.,

MICHAEL RYAN,
SAMUEL BROWN,
JOHN DEVINE,
P. J. LEVISCONTE, M.D., J.P.,
CHARLES LEVISCONTE, M.D.

WESTERN BAY, *March 22.*

Your message received prompt attention; enthusiastic public meeting held this afternoon; resolutions passed, strongly endorsing spirit of message sent to us.

WILLIAM KENNEDY, Chairman Public Meeting.

BAY OF ISLANDS, *March 21.*

A general meeting of inhabitants has been called for Monday, to indignantly protest against the action of British and French Governments *re* lobster factories. Five factories have been established, and five new ones are building. Numbers of men and women have been shipped, material prepared, and considerable expense gone to generally. Orders have been accepted for spring supplies. We will use every effort in defence of our rights as British subjects.

I.

AN INSTRUCTIVE MEMORIAL.

THE MEMORIAL OF SAMUEL STILLMAN FORREST AND GEORGE SHEARER, OF THE CITY OF HALIFAX, IN THE PROVINCE OF NOVA SCOTIA, MERCHANTS,

Humbly showeth—

1. That your memorialists are British subjects, the said Samuel Stillman Forrest having been born in Nova Scotia, and said George Shearer having been born in Aberdeen, Scotland, and carry on business at Halifax and elsewhere under the name and style of Forrest & Co.

2. That in the year 1882 your memorialists erected and equipped a lobster catching and canning establishment at St. Barbe on the north-west coast of Newfoundland aforesaid; in the year 1883 they erected and equipped another lobster catching and canning establishment at Port Saunders on said coast; in the year 1884 they erected and equipped another lobster catching and canning establishment at Brig Bay on said coast, and in the present year they erected and equipped another lobster catching and canning establishment at John Meagher's or Bartlett's Harbour on said coast. The cost of erecting and equipping said establishments or factories, and supplying them with suitable lobster-traps, cars, boats, smacks, and other appliances and gear necessary for the purpose of conducting your petitioners' operations at said factories (apart altogether from the cost of necessary supplies therefor) amounted to upwards of \$20,000. There were no houses or buildings of any kind at Port Saunders at the time your petitioners erected their said factory there, and no fishermen, either French or English, had been in the habit of fishing there, or visiting that place for fishing purposes, for many years before the erection of said factory as aforesaid. The French fishermen were not in the

habit of catching, curing, or canning lobsters on any part of said coast until about the year 1886. Their operations up to said last-mentioned date were confined to cod fishing.

3. That during the period intervening between the commencement of the lobster-packing season of the year 1882 and the end of the year 1886 the operations of your petitioners at said establishments were more or less hampered and interfered with by the action of the French fishermen and the French war-ships stationed on said coast. That during the year 1887, to wit in the month of August of that year, the French war-ship "Pearl" visited Port Saunders aforesaid, and without warning or intimation whatever cut the buoy-lines attached to your petitioners' lobster-traps, and set the traps attached to said buoy-lines adrift, and the said traps and buoys, and the ropes and gear attached, were wholly lost to your petitioners. The number of traps so set adrift and lost as aforesaid was upwards of 60; said traps were not, nor was any of them, ever recovered by your petitioners, nor any of the gear attached thereto. The said traps and gear so destroyed and lost as aforesaid were worth and of the value of \$1 each. Your petitioners had no traps on said coast wherewith to replace those lost and destroyed as aforesaid, nor any material from which traps could be constructed, and they were forced to continue their said business there without said traps, and in consequence their catch during the remainder of said season at Port Saunders was materially reduced, and your petitioners thereby sustained a loss in that respect alone of not less than \$200. During the year 1888, complaints having been made by Captain Humann, chief of the French Naval Division in Newfoundland, to Captain Hamond, commanding H.M.S. "Emerald," the latter wrote your petitioner, George Shearer, a letter, under date of the 18th of June, 1888 (a true copy whereof is hereunto annexed, and also hereunto annexed is a true copy of the chart which accompanied said letter). In consequence of the said letter your petitioners were obliged to take up their traps at, and in the immediate vicinity of, Port Saunders aforesaid, and were compelled either to abandon their operations at Port Saunders altogether, or to set their traps outside of the limits defined upon said charts. The limits so defined embraced the only suitable places for setting lobster-traps at that place, and outside of such limits was open and exposed to the sea, and in consequence your petitioners lost fully 50 per cent. of the lobster-traps which they set there through stormy weather and high seas. Lobsters were as abundant at Port Saunders and vicinity in and during the season of 1888 as they were the year previously, but by reason of your petitioners being compelled to abandon their proper and usual fishing grounds, and being obliged to set their

traps in exposed places, their catch in said season of 1888, as compared with the catch of 1887, was 1,800 cases less, thereby causing to your petitioners, through the loss of their said traps, short catch, and otherwise, a loss of \$4,000 at least.

4. That your petitioners were also prohibited from fishing within said limits defined on said map or chart during the season of 1889. Herewith produced is a true copy of a letter received by your petitioners from Sir Baldwin W. Walker, captain and senior officer of the Newfoundland Fishery Division, shortly after its date, and herewith also produced is a true copy of the chart therewith enclosed. By reason of the terms of said letter your petitioners were prohibited and prevented from setting their traps for lobsters in the safest and most suitable places for catching lobsters in the vicinity of their said factory at John Meagher's or Bartlett's Harbour, and were obliged to set their traps in open and exposed places, thereby causing very considerable loss of traps and gear, and loss of catch to your petitioners, and other losses besides. That on or about the 17th of June, 1889, the French ship of war "Bison" arrived off Port Saunders, where your petitioners' lobster-traps were set, and began removing and destroying said traps; and had removed and destroyed 17 of said traps when H.M.S. "Emerald" hove in sight; and thereupon the crew of said "Bison" ceased their said work of destruction. The traps so destroyed as last aforesaid were outside of the limits defined upon said charts.

5. That on or about the 20th of July, 1889, the French ship of war "Drac" arrived at St. Margaret's Bay, close to where your petitioners had erected a lobster-packing factory in the spring of 1889, and took up and destroyed 505 of your petitioners' lobster-traps. Your petitioners were unable to replace said traps during said season; and, in consequence, the catch made by your petitioners at that place was very much less than it would have been had said traps not been destroyed as above stated. Your petitioners are obliged to hire most of their fishermen on said coast by the season, and several of their *employés* were, by reason of the loss of their traps, as hereinbefore stated, idle during the remainder of the season, thereby entailing great loss upon your petitioners.

6. Herewith produced are copies of other letters received by your petitioners, and by parties in their employ, relating to the restrictions placed upon your petitioners by the officers of the French and English warships in respect to their lobster-fishing operations. Your petitioners crave leave to refer to said copies as part of this memorial. Your petitioners afford employment to upwards of 200 people each season at their said factories, and expend and pay out very large sums of money, to wit, upwards of \$15,000, each season, for labour alone, in connection

with their said fishing and packing operations on said coast. The great majority of the people so employed belong to said coast. If your petitioners are interfered with and obstructed next season as they have been during the past three seasons, they will be obliged to withdraw their packing operations from said coast altogether.

7. Annexed hereto is a statement showing the losses which your petitioners estimate they have sustained by reason of the matters and things above complained of. The said estimate is a just and fair one.

8. Your petitioners were not during said period, or any part thereof, afforded any assistance or protection whatsoever by, or on behalf of, the Government of Newfoundland against the interference and injuries complained of.

Your petitioners feel deeply aggrieved at the treatment received by them, and the losses they have in consequence sustained, and they respectfully submit that inasmuch as the Government of Newfoundland claims the right to exact duties upon goods landed upon said coast, and to have and exercise control and jurisdiction over that coast, and that the prosecution of the lobster catching and packing business on said coast is of vital importance to the people living there, it should afford your petitioners sufficient protection to enable them to prosecute their fishing operations in peace, and, further, that it should compensate your petitioners for their said losses.

“BULLFROG,” AT PORT SAUNDERS,

13th June, 1887.

[MEMORANDUM.]

It having been brought to my notice by Captain Humann, chief of the French Naval Division in Newfoundland, that he has been memorialised by the captains of the French fishing vessels at Port-au-Choix, to the effect that certain operations pertaining to the lobster factory under your management interfere with the enjoyment of the fishing rights accorded to them by treaty, and having carefully considered the matter, I find it my duty to order you to desist from setting traps for the lobsters henceforth on the coast north of the extreme of Two Hills Point and round the shore of Keppel Island, and do so accordingly.

Witness my hand this 13th day of June, 1887.

J. MASTERMAN, *Lieutenant and Commander,*
J.P. for Newfoundland and Labrador.

To the Manager of the Lobster Factory at Port Saunders.

“EMERALD,” AT PORT SAUNDERS, NEWFOUNDLAND,
18th June, 1888.

[MEMORANDUM.]

Complaints having been made by certain French captains of fishing vessels at Port-au-Choix, through Captain Humann, chief of the French Naval Division in Newfoundland, that lobster-trawls set by your fishermen on certain portions of the coast interfere with their fishing operations, I deem it my duty to forbid you in future to set lobster-trawls anywhere north of the first point of rocks at Two Hills Point—that is, between the last-named point and Garganelle Cove. No lobster-trawls are to be placed in Keppel Harbour—that is, between Port Saunders and Keppel Point. Neither are any to be put round the shores of Keppel Island or from Hawke Point to Mall Bay. These portions of the coast are marked in red ink on the accompanying chart. I rely upon you to carefully fulfil these instructions, so as to avoid any pretext for the French to make further complaints.

This order will hold good during this season, and till an English man-of-war visits Port Saunders next season, when circumstances may have altered.

(Signed) NEIL H. HAMOND,
Captain and Senior Officer.

“EMERALD,” AT PORT SAUNDERS, NEWFOUNDLAND,
19th June, 1888.

[MEMORANDUM.]

You are not in future to set lobster-trawls between Two Hills Point and S.W. point of Garganelle Cove, the French having made complaints that it interferes with their fishing and taking bait.

(Signed) NEIL H. HAMOND,
Captain and Senior Officer.

To Alphonse Cornec and Paul Atkins, Fishermen.

H.M.S. “LILY,” PORT SAUNDERS,
August 1st, 1888.

GENTLEMEN,—I beg to inform you that Captain Hamond, of H.M.S. “Emerald,” senior officer on the coast of Newfoundland, has ordered the

lobster-cages to be removed from Garganelle Cove, and all fishing for lobsters to cease from this date in the said cove.—I am, Gentlemen, your obedient servant,

(Signed) CHARLES CAMPBELL, *Captain, R.N.,*
Commanding H.M.S. "Lily."

Messrs. Shearer & Forrest, The Factory, Port Saunders.

H.M.S. "LILY," ST. MARGARET'S BAY,
19th June, 1889.

[MEMORANDUM.]

As I consider it desirable to prevent any cause for complaint on the part of the French fishermen, it is my direction that the lobster-trawls of the fishermen employed by your factory are not to be set to the southward of a line drawn from your factory to the extreme point of White Island.

2. In the accompanying chart the line of demarcation is shown in red ink.

3. The strict observance of these orders being so important, I feel that in case of disobedience it is my duty to confiscate the traps of the person offending.

This order will continue in force for the present season.

(Signed) B. W. WALKER, *Captain and Senior Officer,*
Newfoundland Fishery Division.

To Messrs. Shearer & Forrest, Lobster Factory, John Meagher's Cove,

H.M.S. "EMERALD," PORT SAUNDERS,
20th June, 1889.

[MEMORANDUM.]

In view of the complaints that have been made in former years of the interruption to the French fishing operations by lobster-trawls set by your fishermen, I deem it my duty to forbid the setting of any lobster-trawls on that portion of the coast between the first point of rocks at Two Hills Point and Garganelle Cove.

No lobster-trawls are to be placed in Keppel Harbour—that is, inside a line drawn between Keppel Point and Port Saunders—nor to

the westward from the beacon on the beach placed half-way between Emboulement Point and Hawke Point to Mall Bay.

The other portions of the coast will be regulated by the captain of the "Lily," or in his absence by the lieutenant of H.M.S. "Emerald," who is permanently stationed here with a boat and crew.

I look to you to see that the fishermen employed by the Port Saunders factory carefully fulfil these instructions, and also that they properly obey any order given by the officers regulating these matters.

I enclose a chart, in which the forbidden portions are coloured in red ink for your information and guidance.

In the event of the orders of the English officers not being properly obeyed by the fishermen, the trawls of the persons so offending will be immediately confiscated.

These orders will remain in force for the present season unless further orders are issued.

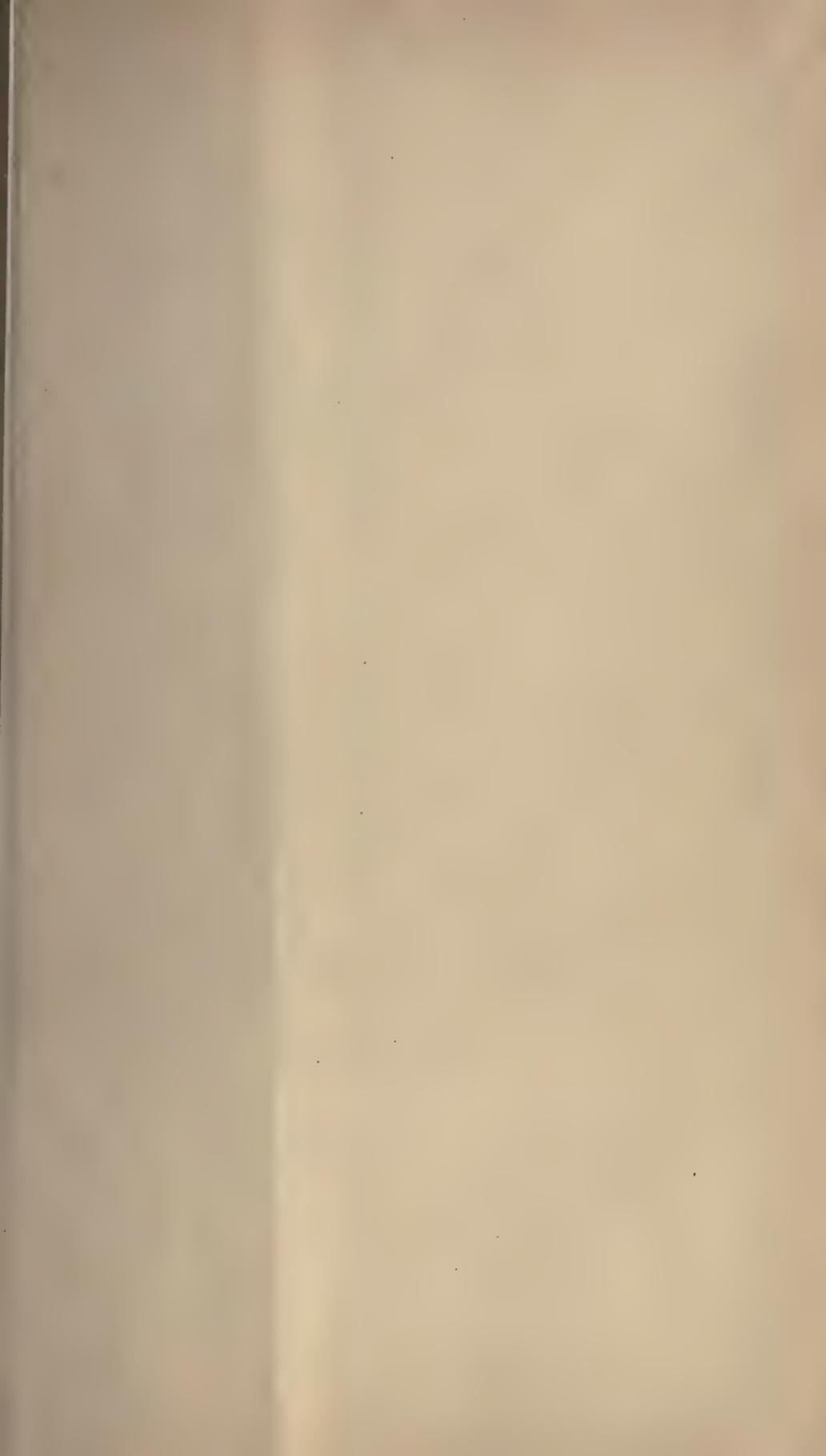
(Signed) B. W. WALKER,
Captain and Senior Officer.

Statement of Losses referred to in the foregoing and annexed

Petition of Forrest & Co.

Loss of traps and gear connected therewith, wages of men idle by reason of not having traps wherewith to fish, loss of catch arising from loss of traps and from being obliged to set the traps in open and exposed places during the year 1888, amounting at least to \$4,000.00.

Loss arising from destruction of traps and gear by French men-of-war, wages of men idle by reason of not having traps wherewith to fish, loss of catch arising from loss of traps, and from being obliged to set the traps in open and exposed places during the year 1889, amounting at least to \$3,720.00.





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