

*Mr. Foster.*—I have already pointed out the substance of it on page 133.

*Mr. Thomson.*—And I say that the substance of the statements which appear on page 128 is exactly the opposite.

*Mr. Foster.*—I dare say. Mr. Davies was then examining; but the statements from which I quoted were made in cross-examination.

*Mr. Thomson.*—The following statement appears on page 44 of Mr. Foster's argument :—

"That would make 24,404 barrels caught in British territorial waters the first year of the Treaty. What were these mackerel worth? Mr. Hall tells you that he buys them landed on shore for 3 dols. 75 c. a barrel."

This is the point to which I wish to call your attention. I cannot comprehend why Mr. Foster should assume the *value* of the privilege of taking these fish to be fixed by the cost of procuring them. It seems to me quite clear that the value of fish in the water, is just their value in the market—less the cost of procuring them and transporting them thither.

However, taking his own method of valuation, this calculation is based on the statement which Mr. Hall makes, that he bought up these mackerel for 3 dols. 75 c. a barrel. I have looked over Mr. Hall's evidence, but it is very difficult to say whether he meant that he paid 3 dols. 75 c. a barrel by reason of having his men in his employ on particular terms, or that he got them at that price; but George McKenzie, who was also a witness, states on page 132 of his evidence, that he paid 6 dollars a barrel for mackerel this year. Now, these two statements are entirely at variance, if Mr. Hall meant that such was the actual value of the fish when they were taken out of the water and transferred to him.

*Mr. Foster.*—Mr. McKenzie testified as follows on page 132 :—

"Q. Then do you pay as high as 6 dollars a barrel for fresh fish?—A. Yes.

"Q. How much did you pay last year?—A. We did not then pay higher than 1 dol. 50 c.

"Q. That would be 4 dol. 50 c. a barrel?—A. Yes.

"Q. And the year before last?—A. The price then was the same as it was last year.

"Q. How much did you pay four years ago?—A. About the same, from 1 dol. to 1 dol. 50 c."

*Mr. Thomson.*—As you will perceive, Mr. McKenzie states, as I said, that he has given 6 dollars a barrel for these fish this year, as against the price which Mr. Hall chose to say he only pays, or 3 dols. 75 c. a barrel. Mr. McKenzie says that these fish cost him 6 dollars a barrel. Mr. Foster's calculation is based on the statement made by Mr. Hall, and this is here confronted with the evidence of Mr. McKenzie.

If your Excellency and your Honours believe that the evidence given on this point by Mr. McKenzie is correct, and you must judge between the two, the calculation of Mr. Foster is necessarily at fault.

*Mr. Foster.*—Mr. McKenzie buys his fish by the hundred, and he estimates the number of fish contained in a barrel; that is the way in which he makes out the price as being 6 dollars a barrel.

*Mr. Thomson.*—Mr. Foster says: "That would make 26,404 barrels caught in British territorial waters that year," which was 1873. Now I take Mr. Foster's own figures in this matter. He further says on page 44 :—

"That was the first year of the Treaty, and there were imported into the United States from the British Provinces 90,889 barrels, on which the duty of 2 dollars a barrel would amount to 181,778 dollars. The value of the fish that our people caught is 99,000 dollars, and the British fishermen gain in remission of duties nearly 182,000 dollars."

This is the only year which Mr. Foster has selected.

*Mr. Foster.*—I have taken the figures for every year since the Washington Treaty went into effect.

*Mr. Thomson.*—Even allowing, as the United States' affidavits affirm, that the part of the gulf catch which is taken by them within the three-mile limit only amounts to one-half, we have 40,000 barrels. To this quantity you have to add the quantity imported from Canada, which is nearly all taken inshore, amounting to 91,000 barrels, the total is 131,000 barrels, and consequently it appears from these figures that there were taken from British territorial waters about 45 per cent. of the entire consumption of the United States. And if the proportion of the voyages made in the gulf, and taken within the three-mile limit be two-thirds, then these figures are increased to 150,000, or to over 50 per cent., and this is the result which follows from Mr. Foster's own figures.