

Mr. WELDON. I think Phair and Hanson had previously brought an action against Robertson, or the lessee, who had endeavored to enforce the law, and that question was then pending before the courts. The jury felt that the Government, or its officers, were endeavoring to set the court at defiance, and I believe that is the reason the heavy damages were awarded. Another case is that of a man named Spur. Spur was willing to take a license from the Government, and on making application the answer was, to show his title, and what was he willing to pay for it. The next, the Inspector of Fisheries came and took his rod from him by force and then brought him before the Magistrate. At the very time that was done, there was an injunction in the Court of Equity, confirmed by the Supreme Court of Fredericton, prohibiting the lessee from fishing in that river. Now, on the whole question was pending the case of Robertson vs. The Queen before the Court of Appeal. This action on the part of these officials was very unwise.

Mr. MITCHELL. The hon. Minister has correctly stated what the real cause of this trouble has been. When we came into Confederation, we found diverse laws existing in the several Provinces. I endeavored to harmonize these laws, and in carrying them out I gave such instructions to the officers in my Department as to prevent any great outrage of the feelings of any of the persons engaged in the fisheries in either of the Provinces. I may say that for the seven years I administered the existing laws of the land in relation to Fisheries, I do not recollect a single case in which any difficulty arose between the Department and the fishermen. The hon. Minister has correctly stated the position I took at the time he commenced issuing these leases. I claimed there was a right in the land bordering on the river, and in the very lease to Mr. Robertson, out of which this litigation has arisen, I put in a saving clause that the proprietors along the river should have the right of fishing off their lands. A warm discussion subsequently occurred in this very place between Sir Albert Smith, late Minister of Marine and Fisheries, and myself, in which I claimed the right of the proprietors to fish off their own lands. It was then contended by Sir Albert Smith that I was wrong in my law, and the report of that debate I hold in my hands. The court has since sustained the view I took in relation to that matter. Of course it was a question that any gentlemen might differ upon; there are very nice legal points involved, at all events. I was so convinced that I was right, that I inserted in that very lease, a clause reserving the right to fish off the banks. After 1873, when the then Minister came into the Fishery Department, a different rule was adopted, and instructions were issued to the fishery officers—I will only speak of my own county—which led to a state of ferment and excitement, which has never to this hour been allayed. The present Department is as active on the policy which they found existing, and it is, I hold, by the decision of the Court, the fact that the position assumed by myself in 1867 was proved to be substantially the correct and sound one. As to whether this special officer performed his duties with moderation or not, I cannot say. All I speak of is from what I have heard that he had the direction of the Ministers, both the predecessor of the hon. gentleman representing the Department of Fisheries in this Government, and the hon. gentleman who represented the Department in the Mackenzie Government, to carry out the law, and being a very zealous officer he was, perhaps, somewhat injudicious at times, and adopted means which have led to decisions for damages. But he was carrying out the orders of the Department, and the House is bound to supply the means to pay damages incurred by him in carrying out the instructions of his superior officers.

Mr. BLAKE. If it be correct that the question had been tried in Robertson and the Queen, and would ultimately be
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definitely determined by an appeal in that case, and an injunction actually existing at the time, what necessity existed under those circumstances to take the rods of three other gentlemen who were fishing? This was to make other test cases, whereas one would have been sufficient. The question having been determined in the case of Robertson and the Queen, I am not surprised that a jury should give heavy damages when they found the Government acted in defiance of what had, up to that time, been laid down as the law.

Mr. WELDON. I do not think the late Government took any active steps. With respect to Robertson, who was a lessee, he undertook to enforce his rights. An action was brought, and the first time the question was tried was on a special case in which the title to the river was admitted to be vested in the Crown. He succeeded, and the case was carried no further. Subsequently an action was brought and the question was then decided by the Superior Court of New Brunswick, that the lease was void. I applied immediately afterwards, in April, 1879, to the Department of Marine and Fisheries, stating that I would carry the case to the Supreme Court if the Government would give a certain undertaking. Instead of doing this, they issued an order, in June, 1879, to the effect that no person should fish in any stream, with rod and line, except by license of the Department—and that is the notice which has created all the trouble. Actions were subsequently brought. The Robertson case had been decided, but the case eventually went to the Supreme Court. While all these cases were pending, instructions were issued to Mr. Venning, and seizures were made.

Mr. MITCHELL. I am not defending the Government, who are perfectly able to defend themselves, but I rise to show the accuracy of the facts I have mentioned in connection with this case. The hon. gentleman suggests that the difficulty has arisen in consequence of acts done by the hon. Mr. Pope, the late Minister of Marine and Fisheries, but he omits to state that the hon. gentleman was carrying out the policy of his predecessor. There is this fact in favor of the action taken by the Minister, the hon. Mr. Pope. The case of Robertson, which was the first case, was the strongest possible case that could be brought against the Government, because his lease contained special provisions, and the hon. gentleman acted wisely in not taking that case to appeal.

301. Miscellaneous—To provide for the publication of the proceedings of the Royal Society\$5,000.00

Sir JOHN A. MACDONALD. The Royal Society, as is known, has been established for the same purpose as the Royal Society of England, for the promotion of science, and especially natural science. It has commenced under the most favorable auspices. I believe that all Canadians of science and high standing have taken up the subject very warmly, and many of them have already read very valuable papers, which, if they are sustained, they will continue to do in all branches of natural science. That high scientific gentleman, Dr. Dawson, the head of McGill College, is the President of it; and he and the Society assure the Government that their transactions will do no discredit to Canada, nor would they discredit any country in the world. We are fortunate in having within our bounds, men of high scientific attainments, who have already taken the matter up, and promised in the various branches of science to prepare and publish papers; but as the House will understand, there is no object in their preparing these papers, unless they can get them published; and it is proposed, with the sanction of Parliament, to aid them in the publication of their transactions, and to ask that this sum be voted for three years, in order not only that the papers now being prepared, and which have been read, should be published, but also that there should be an assurance given that they would be published