# LAWRENCE ADVANCE.

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CHATHAM, NEW BRUNSWICK, MAY 19, 1876.

D. G. SMITH, Editor and Proprietor.

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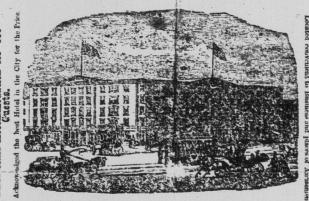


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e of American cotton, in sheets or mounted, a AMERICAN NET AND TWINE CO.

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CHATHAM, FRIDAY MAY 19, 1876.

Debate in the House of Commons Brunswick. (From " Hansard.")

Continued from last issue. Hon, Mr. SMITH--I think that my hon course with respect to this motion. He should have waited until the papers we before the House before he delivered him self, when hon. members would be in a position to judge of the issue between us.
My hon, friend has anticipated the papers, and it is necessary that I should also quote to some extent from the correspon ence. I think I shall be able to show that my hon, friend in office was an er tirely different man from what he is out of office-that every stop he took when presiding over the Department or marine and Fisheries pointed to the ultimate as-similation of the rights and relations with regard to this particular matter over the

Hon, Mr. SMITH-If the hon, centle man had waited for the introduction of the papers, every one, I think, would see that what I infer is correct, and that tes-timony produced before the Courts clearly prove it. The hon, gentleman says that this Government has been guilty of an act of arbitrary conduct in reference to fishermen of New Brunswick.

Hon, Mr. MITCHELL-That is not co

If I have been guilty of arbitary conduct, I think I can convict my hon, friend on his own evidence of nade to take rights from the fishermen which they have enjoyed for three quarters of a century. I deny it. He also takes the ground that the riparian proprictors in New Brunswick have the exclusive right to fish opposite their own lands. I will say to this House that there is no such Law. The question has been adjudicated upon by the Courts in New Brunswick, which were of the unanimous

opinion that no such right existed. If I succeed in establishing this fact, my hon. Hon, Mr. MITCHELL-I know all you

had no exclusive rights whatever. Sir John A. Machonald - Can my hon

friend not read the case? Rose vs. Belyea, first volume of Hannay's Law Reports, and it is as follows . "This was action of tresport, tried before Ritchie, C. J., at the east Kingston Court. The damage complained of was the tearing of the plaintin's net by defendant, while the defendant was fishing with it in the river St. John, within the obband flow of the the, opposite to the land of the defendant, who claimed the exclusive with the fishing the land of the defendant, who claimed the exclusive with the fishing the land of the defendant, who claimed the exclusive with the fishing the land of the defendant, who claimed the exclusive with the fishing the land of the defendant was fishing with the land of the defendant who can be successful.

7 Brig. 316.)

Per Cariam.—The soil of a public namake a right.

Per Cariam.—The soil of a public navigable river is in the Crown and the right of fishing belongs to the public. Since Magna Charta the Crown cannot grant the exclusive right of fishing in a public navigable river to a private individual. The claim set up by the defendant of the exclusive right to fish in front of his own land entirely failed. Malcolmson vs. O'Dea, (9 Jur. N. S. 1, 135.)"

Hon. Mr. MITCHELL-that case was Hon. Mr. Smith-I suppose the hon. centlemen wants it to go to the Queen and

Hon, Mr. MITCHELL-I do. Hon. Mr. SMITH--Then why didn't you get it there? Hon. Mr. MITCHELL-Because I had nothing to do with it. That case was re-

Hon. Mr. SMITH-Yes; but the principle

mote from my county.

the same. Well, my hon, friend cannot mpose on the credulity of the House in that way. The principle is the same is Kings County as in the County of Northumberland; the rights of these people are identical, and therefore what is applicable to one county is equally applicable to the other. My hon, friend has chosen to set up his arbitrary opinion against the solemn and unanimous decision of a Court with the Chief Justice at its head. Why did they not appeal to the Privy Council?

Because, I suppose the lawyers said it would be absurd to do so. Now surely, my hon. friend must submit to that law which is in force in New Brunswick as well as throughout the rest of the Dominion. He deliberately says—and I was rather startled, and I think that the House was startled, and I think that the House was startled and that the country will be was startled and that the country will be every engine, weir or trap used for taking they not appeal to the Privy Council? additional and the first roomice. This was the law in Now Brunswick in ousted, to abolish the system of licenses and leases, and assimilate the law to the Hon. Mr. Mitchell.—We have read all taking of license fees for salmon fishery tractice which had prevailed in New this.

Hon, Mr. MITCHELL -I never dreamt f such a construction being put upon it. Hon. Mr. Smrn-What construction.

friend is -- if it be the fact, and if it was understand in this Parliament, that the people of New Brunswick and Nova Scotia should be exempted from the general law ntroduced by himself, why was it not put in the Act, when a few words would have accomplished the purpose? The second section states: "The Minister of Marine and Fisherics may, where the exclusive right of fishing does not already exist by law "-that is the exception, and Minister has no power, but otherwise he has full power and control-"can issue or "authorize to be issued, fishery leases and liconses for fisheries and fishing wherever 'situated or carried on; but leases or li-

consos for any term not exceeding nine years shall be issued only under authority of an order of the Governor in Coun-My hon friend had great power; and it is extremely doubtful whether the Minister of Marine and Fisheries should have such power, I can quite understand that a Minister might use it generously, but I think it undesirable he should possess it. friend granted a great many licenses in New Brunswick to sportsmen for nine the highest acts of tyranny. The hon. gentleman states that an attempt has been privilege; and if we had them to sell over that my hon, friend had during his adagain we could obtain four or five times as

Hon, Mr. MITCHELL-Will my hon. friend state the cases and I will soon ondeavour to answer him.

Hon. Mr. SMITH-I only allude to the general question. My hon. friend says that the Government has acted in a most arbitrary manner. He cites the second clause, but does he not know that there is another clause which given greater power to the Adminsucceed in establishing this fact, my non-friend will have to acknowledge that he is intriciply wrong, and did me great injus-tice. Its pretensions are extraordin-ary; and what has the Government done in this case? He admits we have certain powers but he maintains that the Government has a rogated to itself a power it did Hon. Mr. Smith—If my hon, friend knows it, very well; but it seems to me that he cannot take a judicial view of the tax, to the destruction of their rights. question at all. It will be in the recoiler- It seems to me manifest, that the people tion of the House that the late Chief Jus-of New Brynswick should be subject to tice Ritchie gave it sashis individual the same rules in this regard, as the inopinion, and there was no appeal from his | habitants of Ontario and Quebec, I could not justify in my own conscience any other the Superior Court.

Hon. Mr. Smrth--The case was tried in friend had evidently been under a similar nisi prins, The Judge charged the jury conviction. I say, therefore, it seemed in a partientar way, and an appeal was to me after a unfair to act otherwise, and I was quite aware that it would be un popular : such action ever is, but my duty

Hon. Mr. SMITH-Yes; it is the case of was plain. I would rather not have im-

of the defendant, who claimed the exclusive right of fishing there. The learned judge directed the jury that there was no exclusive right of fishing in a navigable river; that the right of fishing in a navigable river; that the right of fishing in a navigable ridal river was in the public; and that the ownership of the land gave the defendant no right to interfere with a party fishing in the front of it. Verdict for the plaintiff, \$40.

Barker now moved for a new trial on the grounds:—1, Misdirection; 2, that the damages were excessive, the actual damage done to the net being according to plaintiff's own evidence only \$2, and he was not entitled to exemplary damages. Mayne on Damages, 331; Price vs. Severn (7 Brig. 316.)

Per Craime.—The soil of a public results are resulted to the defendant of the people, without announcing his policy to this House? I woulder that he does not recollect it I can show what he did. He imposed from 50 cents. to \$1 a barrel on salmon of his own mere arbitrary will, without reference to the Government or this House. Where is my despotism when compared to this? I acted with the approval of the whole that the owner arbitrary will, without reference to the Government or this House. Where is my despotism when compared to this? I acted with the approval of the whole that the does not recollect it I woulder that he does n

that; but I do not hold that two wrongs

Hon, Mr. SMITH-I have just got my non. friend where I wanted him. Hon. Mr. MITCHELL-All right, here I am, my hon, friend, Hon. Mr. SMITH-My hon, friend acknowledges that he had done wrong in this case; and I wanted to convict him, public service. They knew that a fishand show that if I were guilty of tyrauny and despotism, it was shared by my col-

tion regulation made by the municipal authorities of the county.

to say, that it was for registration pur-

as other statements he has made, is inaccurate; and convict him of having made a false statement before the House. Hon. Mr. MITCHELL-Go on.

Hon. Mr. SMITH-In the New Brunswick Act 1863, I find section 12, which runs as follows:---

was startled, and that the country will be amazed to hear it that it was his intended the Government by the Government b

people of this country cannot rest upon a basis like that; but while this was under discussion, if such was the understanding, why did not my hon, friend insect it in the Act?

Act?

1869 and 1870 of salmon fishing in you Division. This information is wanted a conce and you will please lose no time it supplying it.

1869 and 1870 of salmon fishing in you Division. This information is wanted a conce and you will please lose no time it work that you have only made the matter work — that 'you have committed an experiment of the first production of the fir

registration fee; I have shown that it was a tax. The 13th Section provides: -

Hon. Mr. SMITH—What construction, Hon. Mr. MITCHELL—The construction you put upon it.

Hon. Mr. SMITH—I will show you this, that those proprietors had no rights such as those in question, secured them by law.

Hon. Mr. MITCHELL—You cannot do it.

Hon. Mr. SMITH—I will prove beyond question that you yourself have so stated.

Now then, Sir, what I say to my hon, friend is—if it be the fact, and if it was

about that? He told us that it was a municipal tax, paid into the county fundspobut here is a law declaring that it was a tax to be paid into the hands of the Council who exercises the power to which I have referred, under this Act, made the following rule and regulation:-

following rule and regulation:

"The owner or wavered meaned for the purpose of taking aannon, shall be liable to and pay the following annual tax, namely: For every net so used of fifty fathoms in longth, fifty cents, and for every fathom over fifty, one-half cent; and the owner of every well or trap used or set for the purpose of taking any fish, shall pay an annual tax of one dollar for overy such weir, and of ton dollars for every such trap."

My hon, friend, in the letter he has ad-

My hon, friend, in the letter he has adtressed to me, has charged me with partiality to my own community; he says that its residents were only taxed \$1 per weir and the fishermen in other sections \$10. I showed, however, to my hon, friend in Before the change of Government my hon.

Triend ground a great property is accusation of tirely falls to the ground. My hom Triend essayed to give the matter another turn, as to the issue between us

Now, Mr. Speaker, I said I would show

wrote:

"Although the question as to whether riparian proprietors have the exclusive right of fishing opposite their land is a legal one, and is really not involved in the controversy between us, it is as well, perhaps, to discuss it briefly.

"You have unreservedly given it as your opinion that they have this right. On this point I distinctly take issue with you, and will call you as a witness against yourself to show that in 1870 your opinion was then in accordance with mine. In your report to Council (which was erroneously printed of Council) referred to in my former letter as dated 27th January 1870, you use this language: "There are doubtless in the Maritime districts numerous lishery stations where the parties have

doubtloss in the Maritime districts numerous lishery stations where the parties have been in peaceable occupation for a long time, and being in some instances riparian proprietors they think they have acquired a sort of preference by such prior occupancy. They may also desire to secure those holdings by leases or licenses." Now, I would ask my hon. friend what he meant by this? He alleges that these Hon. Mr. Mitchell -I said appeal in course. I have looked over the records of the Department, and I find that my hon. many years, fancied that they could claim it by some priority of occupancy, but that they did not have the exclusive privilege they imagined that pussessed. I think my hon friend is well aware of the fact, that I had In x particular vay, and an appeal was taken to the Court in Banquo, which was I was willing to undertake or share the no object in persecuting the people of my unanimously of opinion that the parties responsibility of introducing there the own Province. I thought that we were dealsystem followed in Ontario and Quebec. ing with them in a most benignant way. I felt the res sibility of introdu system which had provailed in Ontario and Quebec, and I was prepared to assume it. posed a regulation obnoxious to my people; but I laid aside personal interests. I find ed, when I was told that in Quebec payment had been made for some years at the rate of \$1 per barrel for salmon taken, and I could only in all honesty introduce the policy into New Brunswick. In one year we issued licenses to the number of twenty five on the Restigouche River, and it workod admirably. The people were well satisfied. The next year I thought it better to continue the system beyond the Restigouche, and the first duty imposed was \$1 per barrel, I adopted the standard of my hon. predecessor. When this Order in Council was promulgated, delegations

> head of the Department they would have been listened to willingly. The tax was reduced to 40 cents, not for New Brunswick alone, but also for Quebec. Well, we had petitions from the very fishermen of the county which my hon. friend represents. They stated distinctly they did not object to pay the tax, and that it was only fair they should contribute something to the maintenance of this branch of the breeding establishment had been placed on the Miramichi, and they state leagues. He declares that the tax levied on the fisher men of Northumberland was on the fishermen of Northumberland was as it is summarized in my letter to the hon, member :-

came and stated that the Fisheries were

very much depressed. I replied at once if the representations were made to the

tion regulation made by the municipal authorities of the county.

Hon. Mr. MITCHELL—I say that it was recommended by the Municipal body of the county.

Hon. Mr. SMITH—I do not know what was recommended, but I understood you to say, that it was for registration purposes, —

Hon. Mr. MITCHELL—Well, I did say so.

Hon. Mr. SMITH—I will show that this, as other statements he has made, is inacfishermen to do no more; and if they can show that the tax is, under present cir-cumstances, too high, I am quite prepared to recommend a reduction; and I may here say that I think they have made out

a good case, and one that calls for a modi-fication of the tax." Now, this was the spirit of the fishermen when my hon. friend entered the county and stirred up sedition among them and preached rebellion. I find in the records of my Department

the following :-"DEPARTMENT MARINE AND FISHERIES, OTTAWA, 11th February, 1871, Sir, -The Minister has had under his con-

practice which had prevailed in New Brunswick. I wonder who ever heard of it before? Certainly, I think, no employed in the Department, or any member of this House. This is rather remarkable, and does not seem to harmonize with the reasons with which he has justified the difference in the systems, anent the assurance given by Sir John A. Macdonald across the floor of this House. I do not know what the right hon, gendeman said at the time; but this I can say, that the rights of the peeple of this country cannot rest upon a peeple of this country cannot rest upon a basis like that that this was under the flowing paid into the Municipal Robert Stations.

It is. Hon, Mr. Smyth—You have, but not the Bleuse; you said that there was no law.

Hon, Mr. Myrchell.—I did not.

Hon, Mr. Myrchell.—I did not.

Hon, Mr. Myrchell.—I did not.

Hon, Mr. Myrchell.—What I said was been action, and this:—that Justices of the Peace in the Glowing years in order to enable you to offer your guidance, and you were also requested to complete this statement for the following years in order to enable you to offer your guidance, and you were also requested to complete this statement for the following years in order to enable you to offer your guidance, and you were also requested to complete this statement for the following years in order to enable you to offer your guidance, and you were also requested to complete this statement for the following years in order to enable you to offer your guidance, and you were also requested to complete this statement for the following years in order to enable you to offer your guidance, and you were also requested to complete this statement for the following years in order to enable you to offer your guidance, and you were also requested to complete this statement for the following years in order to enable you to offer your guidance, and you were also requested to complete this statement for the following years in order to enable you to offer your suggestions thereon, and you were also requested to compl