

pared to discuss the question as if it had arisen at the time of the cross-examination. If the American counsel had the right on that day to take the paper out of the hands of Mr. Davies and put it in evidence, they had the right now. Mr. Davies handed the paper over at the request of Mr. Foster, but he was not bound to do so unless he pleased. Mr. Foster could not have put in the paper unless Mr. Davies had been pleased to give it to him, and no Court would have obliged him to do so. That paper having been handed over to Mr. Foster as a matter of courtesy, if he chose to offer it in evidence, they did not object, but he could not put it in as a matter of right, and make it part of the British evidence. If Mr. Foster offered it in evidence, they would treat it as American evidence wholly.

Mr. DANA said, that in Massachusetts, and he thought the United States generally, counsel were not permitted to cross-examine a witness from a paper.

Hon. Mr. KELLOGG said he recollected the circumstance very well, and he had understood from what had then passed between Mr. Davies and Mr. Foster, as to whether the paper should be admitted or not, that it was given to Mr. Foster, as he supposed, in the view of having it put in; he did not, however, know what the intention was.

Mr. FOSTER said that a large part of the paper was read in evidence.

SIR ALEXANDER GALT enquired what was the value of the return.

Mr. FOSTER said that if the counsel had been pleased to cross-examine on a chapter out of the book of Job, after he had done, he (Mr. Foster) would have been entitled to have that chapter placed before the Commission, as the basis of his cross-examination. Mr. Thomson had said that they could not cross-examine on a paper in that way, but the answer to this was, that the Counsel had done this; and this being the case, how in the world could he be deprived of the benefit of it.

He had supposed it was understood, that this paper was entered to be printed with other matter; and wanting a copy of it, he had obtained this from the Secretary that night. Certainly, he had supposed that the paper was in—else he would certainly have renewed the controversy the next morning. Having deliberately cross-examined on this paper with the view of forcing the witness to say, that it was correct, and that he would not dissent from the statement, the enquiries—"are you going to be rash enough to disagree with these written statements," and "will you venture to say, that this Mr. Murray, of Port Mulgrave, has not better opportunities than you have of knowing how these matters stand,"—were to be read between the lines in Mr. Davies' questions. This paper, purported to be a return,—they might call it official, non-official, or quasi-official, he did not care what, but it was presented to induce the witness to agree to the statements read to him; and this being the case, if this did not bring it into the case, as part of the cross-examination, why he was completely mistaken.

The PRESIDENT:—The decision of the Commission is, that the paper shall be put in.

The return in question is as follows:—

Account of American Mackerel Catches in North Bay. 1877.

Date.	NAME.	Barrels.	Date.	Home or Refitted.	REMARKS.
July 2.	Macleod.....	170	Sept. 19.	Refitted.	
9.	Flying Cloud.....	205	" 4.	Home.	
10.	Alice.....	235	July 25.	"	
10.	Hyperion.....	240	Aug. 17.	"	
10.	C. C. Davis..	90	Sept. 7.	Refitted.	
11.	J. J. Clarke.....	240	Aug. 16.	Home.	
11.	Cayenne.....	300	" 19.	"	
12.	Alice M. Lewis.....	200	" 21.	"	
14.	Marion Grimes.....	150	" 30.	"	
14.	Frederic Gerring, Jr.	380	Sept. 22.	"	
14.	George B. Loring..	250	" 17.	Refitted.	
17.	Fleetwood.....	90	Aug. 24.	Home.	
17.	Falcon (supposed)...	60	" 23.	"	
17.	Eastern Queen.....	120	" 10.	"	210. Back on second trip Aug 28.
17.	Amos Cutler.....	180	" 25.	"	
17.	Rambler.....	270	Sept. 22.	Refitted.	
18.	Harvest Home.....	235	" 13.	"	
18.	Martha C.....	170	Aug. 24.	Home.	
19.	E. A. Horton.....	235	Sept. 22.	Refitted.	
21.	Gertie Lewis.....	127	Aug. 23.	Home.	
21.	John Wesley.....	190	Sept. 2.	Home.	
21.	Idella Surall.....	150	" 13.	Refitted.	
21.	Flash.....	85	" 4.	Home.	
21.	Onward.....	117½	" 2.	Refitted.	
21.	Miantinomah.....	101	Aug. 25.	Home.	
21.	David F. Low.....	220	Sept. 12.	Refitted twice.	
23.	Nettie Moore.....	70	Aug. 10.	Home.	
26.	Lilly Dale.....	130	Aug. 24.	Refitted.	
27.	Ellen Dale.....	88	" 23.	Home.	
27.	Seth Stockbridge.....	none.	" 24.	"	
27.	F. L. Mayo.....	150	Sept. 8.	Refitted.	
27.	B. F. Some.....	160	" 12.	"	
28.	Maggie Power.....	90	Aug. 16.	Home.	
28.	Clara L. Dyer.....	90	Sept. 8.	Refitted.	
28.	Ocean King.....	110	Aug. 30.	"	
30.	Eunice P. Newcombe..	85	Sept. 4.	Home.	
Aug. 2.	Oasis.....	60	Aug. 23.	"	
2.	Challenge.....	170	Sept. 24.	Refitted.	
2.	Helen M. Crosby.....	30	Aug. 21.	Home.	
2.	Lizzie E. Hopkins.....	150	Sept. 24.	"	
6.	Etta Gott.....	226	" 14.	Refitted.	
6.	Rattler.....	170	" 20.	"	
7.	M. J. Elliott.....	60	Aug. 24.		To repair foresail, and went back.
7.	Edmund Burke.....	230	Sept. 21.	Home.	
7.	A. C. Newhall.....	140	" 24.	"	
7.	Roger Williams.....	80	Aug. 31.	"	
7.	Lillian M. Warner.....	120	" 21.	"	
7.	Vidette.....	125	Sept. 19.	Refitted.	
7.	Wm. A. Penn.....	160	" 25.	Home.	
8.	Lizzie Poor.....	150	" 20.	Refitted.	
8.	Lady Woodbury.....	220	" 24.	Home.	
8.	Martha A. Brewer.....	150	" 20.	Refitted.	