

increased so much they are beginning to be a considerable menace to the fish. They pass up the coast in the months of May and June in enormous numbers. Gunboats are sent out by both ourselves and the United States to see that they are not poached upon during that time. They breed on the rookeries. A limited number are killed by the United States, but they have increased enormously. They are just as destructive as or even more so than the hair seal, and they come along just as the salmon begin to be valuable, cleaning everything in front of them. The day will come when the government will have to consider seriously renouncing that treaty and allowing these fur seals to be taken.

Item agreed to.

To provide for the payment to the Leonard Fisheries, Limited, of trawler licence fees, the collection of which was declared to be ultra vires of dominion authority by the Exchequer Court of Canada, \$5,856.36.

Mr. REID: I wish to draw to the attention of the minister the case of the Great West Packing Company, Limited. In 1927 and 1928 the Dominion government Department of Fisheries licensed salmon canneries. The licence fee was \$20 and there was a tax of four cents per case on canned sockeye salmon and three cents per case on all other varieties. In compliance with the demand of the Department of Fisheries in Vancouver for payment of the case tax before December 1 of each year this company paid in addition to the licence fee a tax on each case as follows: 1927 salmon pack, \$474.94; 1928 salmon pack, \$568.01, or a total of \$1,042.95. Some time in 1927 the right of the Dominion government to license canneries was questioned, and in 1929 the privy council decided that the authority to do so was vested in the provincial government. In 1929 the Dominion government did not collect the case tax. I am informed that some of the larger companies did not pay the case tax in 1927, and that only five or six companies paid the case tax in 1928, and that no action was taken to collect during those years.

In the item before us provision is made for refunding licence fees which were later declared to be ultra vires of dominion authority, and I claim that exactly the same course should be followed in the case that I am now bringing to the minister's attention, that of the Great West Packing Company, because the principle in both cases is exactly the same. In fact, I believe that the case of the Great West Packing Company for a refund of the licence fees paid is even stronger because in 1928 they wrote to the dominion

[Mr. Neill.]

Department of Fisheries, after having paid the tax under protest, and here is the reply which they received from the department, which I claim is a direct promise from the department. The department in its letter says:

As the question of jurisdiction over such plants is before the courts the existing law is in effect. It provides for the necessity for taking out cannery licences. While it is not considered desirable at the moment to take court action to enforce fees, should a company refuse to pay them, should the reference to the courts be decided in favour of the federal contention, necessary action to collect such fees will be taken. On the other hand, should the decision be otherwise, the whole question will be dealt with and those who have paid their fees will have such refunded to them, unless action is taken to compel those who have not done so to pay them.

I would ask the minister to note those words: "Those who have paid their fees will have such refunded to them."

Mr. NEILL: By whom is that letter signed?

Mr. REID: The letter is to Mr. D. McPherson of the Great West Packing Company, Limited. Here is a direct promise made in 1928 to refund the licence fees that were paid under protest. The licence fee had been declared ultra vires of the dominion authority, and therefore the principle of refunding the fees is exactly the same as in the case before us where licence fees are being refunded to the Leonard Fisheries, Limited, although I maintain that the case of the Great West Packing Company is even stronger because of this letter from the Department of Fisheries. Before this item passes, Mr. Chairman, I would ask the minister to give me an assurance that the licence fees will be refunded in this case. I have given him the date of the letter and stated that it came from the Department of Fisheries. I claim that that was a direct promise on the part of the department to refund the licence fees.

Mr. DURANLEAU: As the time is so short I am sorry that I cannot give a very lengthy answer to my hon. friend, but my officials tell me that the case of the canneries in the west and the case of the Leonard Fisheries Limited are not similar at all. The canneries of the west have paid a very reasonable licence fee, and if they had not been taxed by the federal government they would have been taxed by the provincial government. As a matter of fact, immediately after the decision declaring our imposition ultra vires the canneries were taxed by the provincial government. While I do not think the cases are similar I am quite willing to examine