

Commissioner for Canada in London, with a view to his presenting in person the Canadian side of the case.

All which is respectfully submitted for approval.

(Signed)

JOHN J. MCGEE,
Clerk, Privy Council.

Inclosure 2 in No. 213.

Mr. Tupper to Lord Stanley of Preston.

Ottawa, May 26, 1890.

THE Undersigned, adverting to the despatch of Sir Terence O'Brien to your Excellency dated the 15th April, 1890, and to the cable message of the 8th May from Lord Knutsford, has to observe that in the year 1886 an Act was passed by the Legislature of Newfoundland entitled "An Act to Regulate the Exportation and Sale of Herring, Capelin, Squid, and other Bait Fishes." This Act was in February 1887 disallowed by the Imperial authorities.

On the 21st February, 1887, the Legislature again passed an Act entitled "An Act to Regulate the Exportation and Sale of Herring, Capelin, Squid, and other Bait Fishes."

Upon the 11th April, 1887, a Minute of Council was approved by his Excellency Lord Lansdowne, in which various objections on the part of Canada to this legislation were mentioned. In this Minute it was shown that under the Act—

1. Our fishermen upon the Grand Banks would be cut off from their free supply of bait, either by purchase or catch.

2. Our fishermen upon the coast of Labrador would be debarred from the privilege of free catch of herring and their hitherto untrammelled trading in herring.

3. Whatever trade was then done by Canadian vessels in herring, or bait-fishes, upon the Newfoundland coast, would be no longer left free.

The Minister of Justice, to whom the Report of the Minister of Marine and Fisheries (upon which the said Minute was based) was referred, concurred in the views therein expressed, and submitted the following observations:—

"It seems desirable that the attention of Her Majesty's Government should be called to some of the very unusual provisions of this Bill. The prohibition in reference to purchasing bait extends to all places on or near any part of the Colony of Newfoundland and its dependencies. This really gives no limit to the extent of the enactment capable of being defined, and, inasmuch as a violation of the provisions of the Bill is to be followed by very heavy penalties, he, the Minister of Justice, thinks that such an enactment would be embarrassing and oppressive in its operation.

"The Bill gives extraordinary jurisdiction to Stipendiary Magistrates. The most stringent Acts against fishing by foreign vessels in other parts of North America have given such jurisdiction only to the Vice-Admiralty Courts. The Stipendiary Magistrates' Courts are inferior Tribunals, without any regular legal procedure, and presided over by persons who are not necessarily possessed of legal qualifications.

"The Bill contains extraordinary inducements to persons to take up the task of prosecution. On conviction half of the fine goes to the prosecutor; on acquittal the prosecutor is still to be rewarded; so that encouragement is given to those who would be disposed to harass and annoy vessels from other parts of British North America by prosecutions which cannot be sustained.

"It is to be observed that the appeal which is to be given from a Stipendiary Magistrate's decisions is of little advantage, as the fishing season would probably be passed and a captured vessel be rendered comparatively useless before the termination of the appeal."

A remonstrance against the Royal Assent being given to the Act was accordingly forwarded to Her Majesty's Principal Secretary of State for the Colonies.

This despatch was referred by Her Majesty's Government to Sir R. Thorburn and Sir A. Shea, who had been delegated by the House of Assembly of Newfoundland to make representations to Her Majesty's Government on the subject of this Bill. Appended to this Report are copies of their replies.*

The assurance contained therein that Canadian fishermen would enjoy equal privileges with those of Newfoundland, and that there would be no restrictions on the

* See Inclosures 3 and 6 in No. 52.