

provinces, including Quebec, became intervenants. The Supreme Court upheld the contention of the Federal Government on every point and on appeal to the Privy Council the decision of the Supreme Court was fully sustained.

The decision of the Privy Council, in brief, is that there is in tidal waters, no matter where situated, a public right of fishery which is controllable only by the Federal Government.

Following this decision, the Department of the Naval Service took steps to assert the rights which they believed the Dominion possessed in so far as the control of fisheries in tidal waters was concerned and in consequence of this judgment of the Supreme Court and Privy Council the province of Quebec was requested to hand over to the Federal Government the administration of the tidal fisheries which had been handed over to it following the 1898 decision and pending a settlement of the question of right. Quebec declined to do so on the ground that as the reference was with British Columbia alone the judgment did not apply to that province, that Magna Charta does not apply in Quebec, and that there is no public right of fishery in the waters of Quebec. There was a good deal of correspondence between the department and the government at Quebec and it was pointed out in reply that while the issue was confined to British Columbia the Privy Council laid down certain principles of public law which apply to New Brunswick, Nova Scotia or Quebec equally as well as to British Columbia. During the course of the correspondence it was intimated in a letter written by the deputy minister to either the Deputy Minister or the Minister of Mines and Colonization in Quebec that if the province desired to enter into negotiations on the question we would be prepared to do so as we were acting under what we believed to be our absolute right under the law and we were willing to concede to Quebec the credit of doing the same thing. As the question must clearly be settled some way or other, we were willing to have a case stated and a further reference made to the courts so that there might be no further question about the matter and that the question should be settled as it must be settled one way or the other. We said that we were prepared to discuss the matter, but as there was no suggestion of favourable consideration of this course, the Federal Government decided that the only

course open to it was to carry out the law as laid down by the Privy Council. Consequently, the department issued a notice stating that during the next fishing season licenses would be granted by the Federal Government to those who were fishing in tidal waters and intimated that any one fishing without such a license would be prosecuted and prevented from doing so. The Government of Quebec has issued a similar notice to the effect, I understand, that any one fishing in these waters must first obtain a license from the Province of Quebec. Our department, acting on what we believe to be the decision of the Privy Council—

Sir WILFRID LAURIER: In the 1898 or the subsequent case?

Mr. HAZEN: The British Columbia case—acting on what we believe to be the decision of the Privy Council, which decision is applicable quite as much to Quebec as to British Columbia, and having also the strong opinion of the Department of Justice to the effect that it is the proper position to take, felt that it was our duty to assert the rights of the Dominion in these tidal waters. I feel, however, that the matter is one in which the province of Quebec honestly maintains the position that it upholds at the present time and that the question will therefore have to be settled in the courts. If there is no agreement in the meantime, next year somebody will be fishing without a license from the Dominion Government, our officers will probably arrest him and have him fined and no doubt an appeal will go to the courts, or it may be taken up in another way through action by the Province of Quebec. It is not desirable that this matter should be left in a state of doubt and uncertainty and it is desirable that a stated case should be placed before the Privy Council as soon as possible. I am pleased to say that since this correspondence took place, within the last day or two, there has been some communication on the subject between the Attorney General of Quebec and the Department of Justice in Ottawa, and there is every reason for thinking that a conference will be held in a short time at which the matter will be discussed between the two Governments and some course taken which is reasonable and proper under the circumstances.

Motion agreed to, and the House adjourned at 10.15 p.m.