

Now, what does that mean. What can it mean but that when we made an oral argument they would make an oral reply, and when we presented a printed argument their printed argument would be put in? I believe that the matter was so understood, and I have mis-understood the whole scope of the argument this morning if every gentleman who has addressed the Court has not argued upon the request I made. The whole argument on the other side has been for the purpose of showing that we ought not to have what we asked for. Then how can I be told that the learned counsel did not understand what I wanted. I do not know what the practice may be here, but I have never been in a Court in which, if there were several counsel on each side, they did not address the Court alternately, so that each side might possess the argument of the other side,

Mr. WEATHERBE :—

That is not the practice in England.

Mr. TRESCOT :—That may be. I only undertake to say what we want and what we consider a fair course to all parties. But I am asked what is the use of such a reply. I answer, just such use as you choose to make of it. We only ask to know your case, and then having met it to the best of our ability, you can reply to our argument as you deem most judicious. Let me illustrate what I mean. You all recollect the testimony as to the Bay de Chaleurs—that fishing was only prosecuted on its shores—that in “the cores of the bay,” to use the language of the witnesses, there was no fishing. Now, if this is so, practically the question of the headlands is put aside, for it makes no difference whether we come within the headland line or not. But suppose in reply, we prove that there is fishing within the body of the bay more than three miles from either shore—how then? Recollect that up to this point, although we have been promised your brief on the headland question, we have not had it. Do you mean simply to discuss our testimony, or to maintain the doctrine of the headland line? Under your proposed arrangement we would have to make our argument without the slightest knowledge of what you intended to maintain. Whereas, under our arrangement, we would know exactly what you thought, and although we might attempt an answer, you would have the clear right to meet that answer by your final reply as you thought fit.

But I have no intention of prolonging this argument further. I think we have stated with sincere fairness what we mean, and that it is obvious that the right of final reply is preserved to the counsel on the other side. Their purpose is equally obvious to keep back in their discretion just as much of their case as they do not choose to give us the opportunity to reply to. If this Commission deems such reticence proper we must accommodate our argument to their decision, and be content with having said what we think justice required.

Hon. Mr. KELLOGG :—

I should like to say with the permission of the other Commissioners, that I rather expected the motion would have been put in due form last night, but I hope that this delay or omission, which has given rise to a little misunderstanding, will not be a reason for exciting any feeling. I am anxious, for one, that in our proceedings we should observe the kind of conduct that we have observed so far, and I have no idea that any thought of getting any such advantage was entertained when the application was made last night.

I want to observe one thing further, with the leave of the other Commissioners, that in discussing these questions which have arisen, and which may still arise, we should observe due moderation, and not get into personal disputation with one another, but address the tribunal as the one which will settle the matter eventually.

DECISION GIVEN BY THE COMMISSIONERS ON THE 1st DAY OF SEPTEMBER, 1877.

“The Commissioners having considered the motion submitted by Messrs. Dana and Trescot, decided, that—

“Having due regard to the right of Her Majesty’s Government to the general and final reply, the Commissioners cannot modify the Rules in such a manner as might impair or diminish such right. Each party will, however, within the period fixed by the Rules, be allowed to offer its concluding argument either orally or in writing, and if orally it may be accompanied by a written resumé or summary thereof, for the convenience of the Commissioners, such resumé or summary being furnished within the said period.”