

stance, taking the four counties in which the tidal portion of the river is situated, St. John, King's, Queen's and Sunbury, the catch in 1887 was 197,252 pounds, and in 1888 it was 173,365 pounds, or a decrease of 23,887 pounds. Now, in the counties where the river is non-tidal, York, Carleton and Victoria, the catch in 1887 was 52,448 pounds, and in 1888, 29,250 pounds, or a decrease of 23,198 pounds.

Mr. WELDON (St. John). Can you give us the particulars of the harbor fisheries?

Mr. TUPPER. No, I have not the returns for the harbor with me. But that is sufficient, I think, to show that there is a serious and alarming decrease in those very waters where this astonishing practice is carried on. Can the hon. gentleman who knows so much, and who ill brooks any difference of opinion from his own on fishery matters, name any country outside of Nova Scotia and New Brunswick to-day where it is allowed to net salmon in the spawning beds, either for the pretended benefit of the riparian proprietor or the residents, or anybody else. It is an anomaly which exists there, and which was never intended to exist, and which that hon. gentleman himself has explained in this House has never been entertained as a construction of our legislation from the beginning down to 1883; and the officers in the department under him have continually urged upon the department since that time that unless some legislation of this character were introduced, these fisheries would be completely ruined. So there is no radical change proposed. There is only an interpretation of this Act in the sense in which the Government intended it should be read in 1883, and before that time. In reference to the point raised by the hon. member for St. John (Mr. Weldon), I would submit briefly, as he himself admits, that the courts have not gone so far in the contention that was raised in this case, that he, I believe, is not prepared seriously to argue that the British North America Act, and under it, our right to regulate the fisheries, would make it *ultra vires*, or impossible for this Parliament legally to pass legislation for the avowed and sole object of regulating and preserving the fisheries. If we have no power in this Parliament to pass a regulation of this kind, then all our regulations should go by the board which have in view a restriction of fishing. There is not an absolute and total denial of the right to fish above the tide, because, although that subject is not mentioned in this Bill, the Act, when read with it, leaves this state of things, that where it will not injure the spawning beds of the salmon, or where salmon can be fished above the tide, without injury to the tidal fisheries, it will be seen that the next section, providing for a license being obtained from the Minister of Marine, such as was given heretofore, would prevent the recovery of a penalty and a successful prosecution.

Mr. ELLIS. By the legislation which the hon. gentleman has proposed, the sixth section, giving the right to issue a license, will no longer apply.

Mr. TUPPER. I am not referring to the sixth section. I am referring to the next section, and the only section in the Act, not in the Bill, which provides for the recovery of a penalty. As the hon. gentleman will see, the Bill before the House does not in its terms refer to a penalty, and before any disastrous effect would occur to the person fishing where fishing is prohibited, it would be necessary to show that he had no license, because the penalty is for fishing in those prohibited waters without license and without permission. So that, even in that respect, the hon. gentleman has not been able to make good the point that by this Bill absolute prohibition is enacted, that will prevent the setting of a net or fishing for salmon by nets in a non-tidal portion of the river. With reference to the other matter alluded to, it is not, perhaps, necessary to speak at great length; that is, a portion of the general Act which enables fishery

Mr. TUPPER.

officers to fix the point where the tidal water ends and the non-tidal water begins. That was considered long ago necessary for the purpose of certainty, for the benefit of the fishermen concerned, as well as the mere easy carrying out of these regulations. Instead of leaving the matter to be decided in the courts of law, where the expense of expert testimony, witnesses, etc., would be incurred, the Legislature decided in the original Bill that it would be wise to enable the officers to determine the character of the waters, and to define them; and in practice that provision has not been unduly exercised, but it is exercised at any time in reason. The effort is to find as near as may be where the waters meet, and that point is fixed and determined upon. I think I have covered, in a very summary way, the points raised. This subject, if fully discussed, would take much longer time than the House is, perhaps, prepared to give to it; but I am glad to know that even if these points have been briefly discussed, they were considered carefully by Parliament before. We make the system uniform by this Bill. It is the system that now obtains in all the other Provinces besides Nova Scotia and New Brunswick, and it is not an unpopular system. It is a system which has worked well, and which the Government from 1867 to 1882 supposed to be in force throughout the Dominion.

Mr. MITCHELL. Would the hon. gentleman please read that portion of the speech he referred to, in which I expressed a different view from what I do now? for he has not read it yet.

Mr. TUPPER. I read the portion of the speech which I think established the statements I made. I will send the hon. gentleman the *Hansard*, and I have no doubt the House will be willing to hear his explanation of it.

Mr. KIRK. When this question was before the House a few days ago, I asked the Minister of Marine and Fisheries if it was the intention of the Bill to prohibit the catching of salmon with nets in other than tidal waters, and his answer was yes, it would be confined to tidal waters.

Mr. TUPPER. That is what the Bill states.

Mr. KIRK. If I understood the Minister correctly, he has stated just now that the Government have the right to issue licences to fish in those waters. The Bill has only one clause, but it means a great deal:

"The use of nets or other apparatus for the capture of salmon shall be confined to tidal waters, and any fishery officer may determine the length and place of each net or other apparatus used in any of the waters of Canada."

According to this Bill, it is quite clear that nets cannot be set in waters other than tidal waters in the Dominion of Canada, and the fishery overseers are given the power of saying how long the net shall be. I did not know that they had that power before. There is a provision in this law which prohibits the use of swing nets. That is in the old law, so that it is not an alteration. Now, it appears to me, and it has been the feeling always in Nova Scotia, that the law was oppressive and has been always quite stringent enough. In the ninth section, the law provides that in the Provinces of Nova Scotia and New Brunswick salmon shall not be taken between the 15th of August and the 1st of March. At all other seasons of the year, no salmon shall be taken. That is a very stringent law. There is only a short season in Nova Scotia when salmon can be caught, April, May, June and July, four months; and we are prohibited from catching fish with nets during the remaining eight months. I am firm in the belief that if the officers of the Government were made to do their duty, as they should, the salmon would be quite sufficiently protected under the present law. In sub-section 7, section 8, the law requires that nets shall not be set closer to each