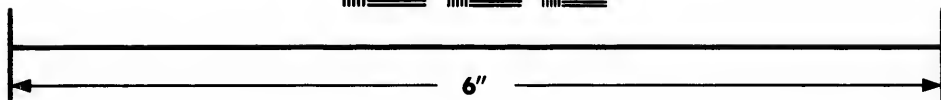
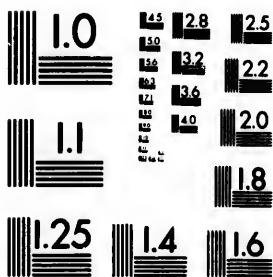


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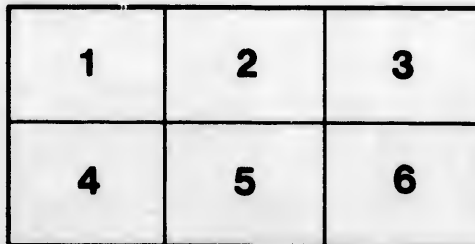
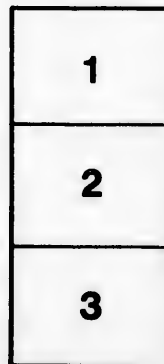
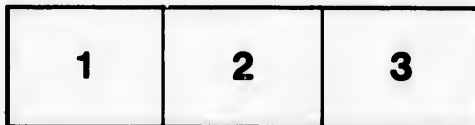
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THE CANADIAN FISHERIES DISPUTE.

Nothing can be more painful and annoying than a dispute between friends. The annoyance becomes doubly unpleasant when any accusation is made by either side of conduct unbecoming a neighbour, a brother, and a Christian. Yet this is in some measure the charge brought against the Canadians by the good people of Gloucester, Massachusetts. From this thriving and energetic little city sail the swarm of white-winged schooners which, splendidly equipped and manned by seamen, who are often British born, and are always of British stock, make havoc among the mackerel and cod, menhaden, herring, and capeling, around the north-eastern shores of the American continent. Is the accusation made by these pushing fishermen just? It has been made before when similar circumstance arose, and when privileges, to which the men had been admitted for the sake of other concessions made by themselves and their inland fellow-citizens, had been withdrawn, not by the action of Canadians, but by the desire of their own representatives. They have now placed an almost prohibitive duty on all the fruit of Canadian fisheries, that is on all fish caught by Canadian vessels, while they themselves are left in possession of much that in Europe would go to swell their neighbour's wealth in inshore fishery. Perhaps it may be thought that such a high tariff placed on all things Canadian is hardly the sign we should like to see of perfect amity, for it is a wealthy people which imposes this on a weaker and poorer ally. Yet no Canadian has felt tempted to ask that State embassies be sent because he cannot introduce himself to the oyster-beds of Maryland. His own fisheries represent his "one ewe lamb." It is all that he has in material wealth, now that the forests are largely cut down; and unless he keep a hold on what he has left, he is at the mercy of the first bold bargainer who comes along. And there are some very bold bargainers with whom he has to deal.

"How many times," said an energetic French Canadian, "had not our men been molested? Had it not happened that they had been excluded from their own banks of Notamquan, because American fishing vessels happened to be there first, filling the harbour? Have not the Canadian banks been covered with large numbers of their fishing vessels which injured very materially the operations of our fishermen? How many times have numbers of them anchored in our harbours, inside the moorings of our men, and prevented the setting of nets which were going to provide them with bait for the morrow's work, and how often have they in running out during

the night torn and destroyed many of those nets, worth from twenty to forty dollars, by catching them with their vessels? I do not speak," he said, "of the number of times in which we have suffered depredations, trespasses, &c., &c." Such and similar complaints were made in the Dominion House of Commons by men who spoke the naked truth. This is enough to show that there is a great deal to be said on the other side. But the harm is done by a few men only.

The American public has over and over again given an example to the nations of the Old World in holding aloft that torch of liberty which consists in the assertion of the soundness of contract—the obligation of treaty—the principle that a nation's word is a nation's bond. From that holy alliance with international right and moral duty they will never swerve. And this feeling is reciprocated by their northern brothers. When a few years ago complaints were made that raids were feared from the great Sioux chief who had taken refuge in Canada, assurance was made doubly sure, and he was so guarded and warned, and finally starved, that he crossed the line and surrendered to the American frontier forces. When, again, it was urged that on the great lakes salvage for vessels in danger was not sufficiently secured, Canada, disregarding the belief that no case had occurred to warrant the views of the citizens interested in such salvage work on the south shore, increased her vessels of succour, and sent a circular to all her customs officials that the widest interpretation was to be given to their instructions, that in no case of danger being apparent was any vessel, coming from no matter where, to be debarred from rendering assistance.

Now as to this horrible charge of unfriendliness, &c., on the present occasion. The state of affairs under which it is made is this. Greatly desiring a continuance of the reciprocal arrangement which lasted for twelve years until 1885, whereby there was free fishing for all fishermen, and free entry for the fish into the New England markets, Canada was disappointed in her desire, and the party in power at Washington said, "No, the fishery is not worth our concessions of free entry for your fish and oil and raw materials, and we shall not renew it. The condition of things existent before the arrangement is sufficient for us." What was this? It was the condition made by the treaty of 1818, which had been modified only during the two terms during which the Americans allowed the reciprocity treaties to endure. It is, then, simply and solely to the treaty of 1818 that we must look. And the respective rights were sharply enough defined by that document. A long stretch of the shore of the north of the St. Lawrence, from opposite Anticosti eastwards, the whole of the western and a great part of the southern shore of Newfoundland, together with the Magdalen Islands, lying in the heart of some of the best fishing districts, were left for the free use of foreign fisher-

men. The only exception made was in case of settlement, and settlement has been so sparse that this exception has not entered as a factor into the question. There is thus a great territorial shore always open by treaty. This was a concession of magnitude, but it was not to serve as a wedge for the splitting of the Canadian right to their own fisheries. Such rights are nowhere so well understood as in America. Each State may make its own regulations with regard to its fisheries, so long as the free use of the waters for purposes of navigation and commercial intercourse be not interrupted. The Federal United States Government has again and again exercised its rights in regard to the whole coast, by giving and withdrawing permission to fish within the three-mile limit of the shore. Maryland's armed cruisers have more than once used force to protect her valuable oyster-beds, visiting all trespassers with fine and forfeit. Each European power has done the same, and it was essential to the independence of Canada that such rights should be hers, in regard to her shore, as were her neighbours' rights in regard to theirs. Yet so anxious has the Dominion been to show consideration, kindness, forbearance, and goodwill, that for a whole half-year during 1885, after the lapse of the treaty, this right was not exercised, and American vessels were allowed to fish when, how, and where they chose. Nor did the fact that the Canadians were during this time excluded from the American shores make them alter. In other years they had shown the same forbearance. Unwilling to exercise their prohibitory rights, if any other scheme would serve, they had tried if it were not possible to get the Americans to take out licenses, charging a moderate license fee in each case. It was found that the more numerous the guests became, the smaller grew the revenue of the Hotel! The goodwill was frustrated because few of the visitors would take out the license. As the Irishman said of a request to pay interest on a loan advanced to him, "It spoilt all the grace of the gift." The concession was abused, and it became impossible any longer to continue it. But these experiences did not hinder the exercise of consideration. When lately a few vessels were seized, out of the large number which had to be questioned, and were even in doubtful cases allowed to go free, a fine was imposed in lieu of the forfeiture of the boat. While determined to accept only the treatment solemnly accorded to her by treaty, a right never rescinded or modified in one iota by any commercial arrangement made by Great Britain, the Dominion has shown in the most signal manner her desire to bear as gently as possible on the peccant piscators. No one need imagine that either the deep-sea fishermen or the trading vessels are injured for the sake of these trespassers. These two form two classes perfectly distinct from each other, and for both full provision is made by treaties which the Canadians observe with cheerful

loyalty, for it is for their own interests. Each coasting vessel has only to call at customs ports, where she may trade, transfer cargo, and do as she pleases, which includes the purchase of bait for her fishing consorts at sea. But fishing boats are specially provided for also; they must also call at customs ports. They can repair, get water and wood and shelter, but cannot get bait, because human virtue could not resist in such a case the use of the bait in sailing out within the three-mile limit, for there is bait that can be used within the three-mile line as well as outside of it. If nets be more used than bait for deep-sea fishing at present, there is no warranty that this will last.

To the United States her fishing industry is as nothing. There is such abundance and variety of industry there that the number of fishermen is small. But Canada out of her small population has about 50,000 men engaged in this industry. The people largely live by it, and they believe that they follow their pursuit with the systems and in the manner best calculated to preserve the riches of the sea. In this they are probably quite right. Conclusions drawn from our experience of the deeper waters on this side of the Atlantic are wholly inapplicable to the shallower seas and vast banks of New England, Canada, and Newfoundland. The Americans by a too indiscriminate and wholesale use of their rivers have destroyed them. There is hardly a salmon to be seen in rivers where, within the memory of man, they were abundant.

Just as in Scotland the servants were said to make a stipulation that they should not always have salmon to eat, so in the neighbourhood of the Connecticut the apprentice was wroth if he got that dish more than twice a week. In his report of 1880, Dr. Baird says that salmon "were found even to the Housatonic, though there is no evidence that they occurred in the Hudson or further to the south. The shad was found in every stream of this coast from Georgia to the Gulf of St. Lawrence, and although still ascending most of these waters during the spring, has been sadly reduced in abundance. Martin's *Gazetteer of Virginia*, published in 1834 at Alexandria, states that the preceding year 25,500,000 of shad were taken by the various Potomac fisheries, as well as 750,000,000 of fresh-water herrings. This by a moderate estimate would amount to 600,000,000 pounds of fish secured in six weeks in this single system of waters. This *Gazetteer* also states that during the same year nearly 1,000,000 barrels of fish were packed on the Potomac, requiring as many bushels of salt. These were consumed in the United States or shipped to the West Indies and elsewhere. What is the condition of things at the present time? In 1866 the catch of shad on the Potomac had dwindled to 1,326,000; in 1878 to 224,000, the latter not one per

cent. of the yield of 1833. The catch of herring in 1833, estimated at 750,000,000, had been reduced in 1866 to 21,000,000; in 1876 to 12,000,000; and in 1878 to 5,000,000; again less than one per cent. of the yield of the first-mentioned period. John Josselyn in 1660 says 3,000 striped or rock bass were taken in one haul in New England. Mr. J. Morton says of the Merrimac he has seen stopped in that river at one time as many fish as would load a ship of 100 tons. In the early days of the Republic the entire Atlantic shore abounded in fish of all kinds. Where cod, mackerel, and other species are now found in moderate quantities, they then occurred in incredible masses.

Again, the question of bait is inextricably mixed up in the fishing question, and the means of preventing a disappearance of bait-fish, such as has happened on many portions of the American shore, must also be considered. A Commission composed of men of science could do this adequately. They could go round the coasts together taking evidence, sifting it, rejecting what is doubtful, and probably agreeing in many points where evidence was concurrent and good. The right to sell bait and obtain it is an indefeasible right belonging to each nation which owns the shore. It is a right which has been guarded and recognised in every treaty. Shell-fish were always expressly mentioned as reserved. Clams, &c., were considered the best bait, but all were to be kept, of whatever sort; and the rights every people keep in regard to the three-mile line, within which their jurisdiction extends off shore, protect not only the shallows where the fish chiefly lie, but especially preserve the bait grounds, without which sea fishery cannot easily be carried on. Much has been conceded, as already said, on this point when Newfoundland, the Magdalen Islands, and the Labrador coast were allowed to be used by all for bait or fish. To concede any more without compensation in reciprocal friendliness in tariff arrangements would be for one party to the bargain to "give himself away." That it is admitted to the full that the possession of the bait grounds and the protection of the bait (as in the treaty of 1818) is an unquestioned right, may be gathered from the fact that the United States Commissioners during previous negotiations desired to have the privilege of taking bait included with other advantages required by them. This the British representatives declined during the negotiations of 1818. Further, when again Great Britain claimed compensation when the privilege of buying bait was allowed, the United States declined to entertain the idea on the expressly stated ground that the purchase of the coveted article was an *incidental privilege* that could at any time be withdrawn. This was in 1878. So far the right is indisputable, and it is equally indisputable that the property in bait is a most valuable one, for which concessions of equal value

should be given if a bargain is to be struck. If the 1st article of the treaty of 1818 be not written on the winds, there can be no dispute on this point.

Mr. Earl, a distinguished American gentleman, in speaking of the cod fishery of Cape Anne, speaks of the importance of obtaining and preserving bait with so large a fleet engaged wholly in handlining and trawling. On its abundance or scarcity depends largely the success or failure of the season's work. Codfish, though they have the habit of snapping at and at times swallowing anything that may come in their way, are on the whole dainty fish, and when one expects to be successful in catching them for profit, he must have not only a good quantity of bait, but also a kind that the fish are known to prefer. So fastidious are the fish that the fishermen have different names for the various schools derived from the kind of bait on which they live during the fishing season. We often hear them speak of the clam school, the herring school, and the squid school; and when securing bait they will at times pay exorbitant prices for that kind on which the fish are known to be feeding, rather than take an equally good quality of another kind at much lower rates.

Besides clams (a shell-fish) and fresh and frozen herring, squid are used, and fresh and salt menhaden, the capeling and alewives—all fish found in abundance on the sea-banks. Clams are used principally during the summer months, and at other times when bait is scarce. They occur in numbers along the muddy flats of the shore between tide-marks, being small and scattered near the line of high water, but gradually increasing in size and number towards the low-water line. An energetic worker can dig from seven to nine bushels at a single tide, making two-thirds of a barrel of bait; but near Gloucester the flats have been dug over so frequently that the clams are becoming scarce, and the fishermen are often obliged to buy their supply at other places, at an average price of four to five dollars per barrel.

The sporling (young herring) average six inches in length. The supply comes now wholly from Ipswich Bay. They are taken at night within a short distance of the shore. A torch is placed in the bow of the boat, and two men row it rapidly through the water. The third secures the fish as they gather in front of the boat attracted by the light. A good dipper will often catch half a bucket at a single dip. This bait does not last, and a fresh supply must be obtained each day. The herring appear in the Cape Anne markets in December, from which time they are used as bait till April, when the weather becomes so warm that they cannot be obtained. The supply comes largely from the coasts of Nova Scotia and Newfoundland, where the fish are abundant

during the greater part of the winter. Many of the larger Cape Anne vessels engage in the frozen herring trade, visiting those points where the herring chance to be most abundant, and bringing large takes to the principal New England markets. Formerly they supplied themselves with nets, but of late they have found it cheaper to buy the fish of the natives. The herring are first frozen on the shore, then thrown with a little straw into the hold. A vessel thus loaded carries from three to four hundred thousand fish. The price used to vary from twenty-five cents to one dollar per hundred. After the season for frozen herring is over there is often great difficulty in procuring bait of any kind. In the spring of 1879 shore fishing was almost wholly suspended for several weeks on this account. Though that season was exceptional owing to the absence of menhaden from the Gulf of Maine, yet the question of the bait supply has for years been growing more serious, and the difficulty of obtaining it has been constantly increasing. The expense has also been proportionately increased, until it now seriously reduces the profits of the business.

This shows how important a property bait has become. The bait obtainable from the United States was of no advantage to Canadians. Menhaden were, it was alleged, of value, and it is true as stated that the menhaden are only to be found in United States waters. But menhaden are by no means indispensable for mackerel fishing; other fish baits plentiful in British waters are as good, especially those small fishes caught chiefly with seines inshore. British fishermen can find quite enough at home.

Can any one after reading this doubt that there is an overwhelming temptation to follow where such a prize as that offered in squid, capeling, and herring can be procured? Further, can it be doubted that, once the bait is procured, it would be a matter of the utmost difficulty to keep the three-mile-from-shore limit intact? Not only the British navy, but the armed police of half a dozen of the naval powers would not be sufficient to guard adequately such an extent of waters. The harm done to the southern fisheries and bait grounds is undoubted. Does not all this again point to the wisdom of ascertaining by what means—whether by restriction in the use of certain engines, or by time restrictions—the “harvests of the sea” had best be preserved? Were any points agreed upon on such subjects it might hereafter be possible to allow the general obtaining of bait, or that bait should be sold at certain ports to all. It should always be remembered that there is no restriction now existing against authorised traders calling at ports where there are certain houses for the purchase of bait. But they must in Canada, as elsewhere, be prepared to prove they are not transgressing the laws. Any American vessel of the trading class can call at

present, and can take to the fishing vessels on the banks at sea all they need. And this brings us to the customs regulations complained of. It has always been held that a fishing vessel is not a trader, and that they by the treaty of 1818 can call at ports only to procure shelter, wood, and water, or for repairs. There is no inhumanity here, but a simple arrangement made and agreed upon, in order that trespass on grounds sacred by treaty rights shall be prevented. Such necessary prohibitions are not confined to the one continent, but *mutatis mutandis* are in force here to guard English shore fisheries and to prevent violations of customs law. Under European treaties the home "headlands" definition is, that bays are inviolate when the headlands are ten miles apart. But a special treaty covers the Canadian ground, leaving certain shores free and reserving others. It will be observed that shell-fish have always been strictly excepted from any privileges granted. We must glance at the treaty of 1818, which is now in force on the cessation of the salutary twelve years' arrangement for the joint use of the fisheries, which was unhappily discontinued at the desire of the American Government in 1885. It will be as well also to give very briefly the facts since the separation between England and her American colonies, and we will shortly cite subsequent events. England after the war at first denied the right of those who had formed a separate government to fish in British waters, but afterwards allowed their fishermen to do so where the shores were not settled, but nowhere if settled. In 1783 the rights accorded were not so large as those enjoyed before the war, for it was not permitted to land in order to dry and cure fish in Newfoundland, and elsewhere, but only where no settlement had been made, so that it was provided that as British subjects spread along the shores they should have exclusive rights. After the war of 1812 it was agreed by the British representatives at Ghent that the claims of the Americans to use the fisheries as though they were still British subjects could not be sustained. Orders were, however, sent out to the Governor of the British North American Colonies, in order to prevent collisions, not to interfere with citizens of the United States engaged in fishing off Newfoundland, in the Gulf of St. Lawrence, or on the high seas, but to prevent them from using the British territory for purposes connected with the fishery, and to exclude their fishing vessels from harbours, bays, &c. Several captures of fishing vessels resulted, and in 1818 Article 1 of this convention said: "It is agreed that the United States shall have for ever, in common with British subjects, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Ramean Islands, on the western and northern coast of Newfoundland from Cape Ray to the Ramean Islands, on the western and northern coast of Newfoundland from Cape Ray to

the Quirpon Islands, on the Magdalen Islands, on all coasts of Labrador from Mount Joly through Belleisle and northward. Also that American fishermen shall have liberty for ever to dry and cure fish in any of the unsettled bays of South Newfoundland and of Labrador; but so soon as these are settled, or any part of them, it shall not be lawful to dry or cure fish without previous agreement. The United States renounce for ever any liberty heretofore enjoyed to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbours not included in the above limits. Provided that American fishermen be allowed to enter such bays and harbours for the purpose of shelter, of repairing damages therein, of buying wood, of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as shall be necessary to prevent them taking, drying, and curing fish therein, or in any other manner whatever abusing the principles hereby reserved to them."

Ample margin was by this left to guard against any abuse. And soon afterwards the United States Government loyally warned their subjects that they were to observe strictly the limits assigned. In 1847 the first proposal for a free exchange of natural products between the two countries was made, but nothing was done until 1854, when Lord Elgin completed the arrangement which lasted until 1866, when it was terminated by the Americans, to the regret of all who had benefited by the good understanding it had long insured. Then the license system was tried; but our visitors would not buy the licenses, and would fish without them, so that this amiable attempt on our part to please them at small cost failed. Mitigations of the penalties imposed by law were of little avail, although often given. Trespassers came and seizures constantly occurred, with consequent irritation; and in 1871 the second Reciprocity Treaty, lately abrogated, was negotiated. The Canadians, eager as usual to show their goodwill, allowed the freedom of the inshore waters before the treaty went into operation, and this was acknowledged as a "liberal and friendly" act by the United States.

The high authority of Webster is always justly cited in support of our claim. Here again the amiable desire to keep on good terms with America has been signally shown. Over and over again have these rights been waived, and strongly and legally as they are at the present moment held, I do not know that they have of late been enforced. It is probable that in some cases fishing within such limits might be allowed without detriment, and that in others it should be prevented. Where a tideway is strong, the action of boats throwing out the offal and refuse of the fish they catch need not harm the banks. On the other hand, where such refuse can float about in the same place, and is not carried rapidly away by the action of currents, the fishing would probably be rapidly destroyed.

If, for instance, in parts of the Bay of Chaleurs such action were allowed, the mercantile houses of Jersey might put on mourning with their Canadian friends who dwell along the bright shores where the red rocks are honeycombed into fantastic shapes, from New Carlisle to the strange island arches of Percé. Few fish would be seen, and the Lenten fasters of Portugal, and Spain, and Italy, would deplore the rise in the cost of the splendid dried cod now sent to them by Jean Baptiste. Here again is a reason for a scientific commission which can prejudice no cause and compromise no position, while it may serve as the basis for some agreement founded on common-sense and international comity and interest. Ample evidence of an accommodating spirit has been given by Canada, but this must not and cannot prejudice her right to use her shores for her own benefit. It will be much to be regretted if courtesy and kindness be found to bring forth crops of new demands. No restriction in commercial intercourse is intended or exercised. Any such contention, if now put forward, would be a totally new line of argument, advanced as heavy artillery to cover the rush of skirmishers. It would be an attack, not the exercise of friendly rivalry in industry. Let facts be first ascertained by a scientific commission as to the best common use of these sea harvests, and then it will be time to see whether natural products cannot again pass the boundary lines under some provision made for the good of both peoples. Meantime Dr. Baird and Sir W. Dawson may do much to help both, if they be allowed, and if the politician does not sit down upon the lamp of science and leave us all to darkness and recrimination.

LORNE.

