

Technical and Bibliographic Notes / Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming are checked below.

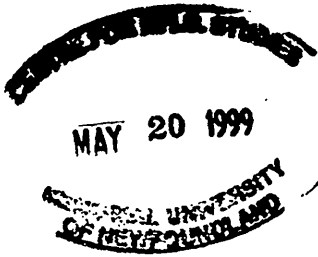
- Coloured covers / Couverture de couleur
- Covers damaged / Couverture endommagée
- Covers restored and/or laminated / Couverture restaurée et/ou pelliculée
- Cover title missing / Le titre de couverture manque
- Coloured maps / Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black) / Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations / Planches et/ou illustrations en couleur
- Bound with other material / Relié avec d'autres documents
- Only edition available / Seule édition disponible
- Tight binding may cause shadows or distortion along interior margin / La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge intérieure.
- Blank leaves added during restorations may appear within the text. Whenever possible, these have been omitted from filming / Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.
- Additional comments / Commentaires supplémentaires:

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- Coloured pages / Pages de couleur
- Pages damaged / Pages endommagées
- Pages restored and/or laminated / Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed / Pages décolorées, tachetées ou piquées
- Pages detached / Pages détachées
- Showthrough / Transparence
- Quality of print varies / Qualité inégale de l'impression
- Includes supplementary material / Comprend du matériel supplémentaire
- Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image / Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible.
- Opposing pages with varying colouration or discolourations are filmed twice to ensure the best possible image / Les pages s'opposant ayant des colorations variables ou des décolorations sont filmées deux fois afin d'obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below /
Ce document est filmé au taux de réduction indiqué ci-dessous.

| | | | | | | | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 10x | 12x | 14x | 16x | 18x | 20x | 22x | 24x | 26x | 28x | 30x | 32x |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |



Despatch.

NEWFOUNDLAND.

SECRET.

From LORD DERBY to the GOVERNOR of NEWFOUNDLAND.

DOWNING STREET, 12th June, 1884.

SIR,—

In my despatch No^l 77 of the 18th December last I informed the Officer administering the Government of Newfoundland of the appointment of Mr. Clare Ford, C.B., C.M.G., and Mr. E. B. Pennell as British Commissioners on the Commission to meet in Paris in connection with the Newfoundland Fisheries question.

These gentlemen, representing Her Majesty's Government, and M. Jagerschmidt and Captain Bigrel, acting on behalf of the Government of the French Republic, met in Paris on the 23rd January last, and the labours of the Commission were concluded at a meeting held on the 26th April, when an Arrangement was signed by the Commissioners.

I have now the honor to transmit to you a copy of that Arrangement, together with two inclosures accompanying it, which consist of a Statement and Map referred to in Article 2.

You will observe that the Arrangement has been entered into subject to the approval of the Governments of Great Britain and France; and Her Majesty's Government will not intimate their approval until the Colonial Government and Legislature have had an opportunity of studying its provisions, and of considering the great advantages which it affords for a settlement of the long outstanding and difficult question of the fisheries.

Before proceeding to explain the details of the present Arrangement, it may be convenient to recapitulate the provisions of the Treaties bearing upon the question.

They are as follows :—

By Article XIII of the Treaty of Utrecht, 1713, it was agreed that “The island called Newfoundland, with the adjacent islands, shall, from this time forward, belong of right wholly to Britain, and to that end the town and fortress of Placentia, and whatever other places in the said island are in the possession of the French, shall be yielded and given up within seven months from the exchange of the ratifications of this Treaty, or sooner if possible, by the Most Christian King to those who have a commission from the Queen of Great Britain for that purpose. Nor shall the Most Christian King, his heirs and successors, or any of their subjects, at any time hereafter lay claim to any right to the said island and islands, or to any part of it or them. Moreover, it shall not be lawful for the subjects of France to fortify any place in the said Island of Newfoundland, or to erect any buildings there, besides stages made of boards, and huts necessary and usual for drying of fish, or to resort to the said island beyond the time necessary for fishing and drying of fish. But it shall be allowed to the subjects of France to catch fish, and to dry them on land in that part only, and in no other besides that, of the said Island of Newfoundland, which stretches from the place called Cape Bonavista to the northern point of the said island, and from thence running down by the western side, reaches as far as the place called Point Riche. But the island called Cape Breton, as also all others, both in the mouth of the River St. Lawrence and in the gulf of the same name, shall hereafter belong of right to the French, and the Most Christian King shall have all manner of liberty to fortify any place or places there.” And by Article V of the Treaty of Paris, 1763, that “The subjects of France shall have the liberty of fishing and drying, on a part of the coasts of the Island of Newfoundland, such as it is specified in Article XIII of the Treaty of Utrecht, which Article is renewed and confirmed by the present Treaty (except what relates to the Island of Cape Breton, as well as to the other islands and coasts in the mouth and in the Gulf of St. Lawrence); and His Britannic Majesty consents to leave to the subjects of the Most Christian King the liberty of fishing in the Gulf of St. Lawrence on condition that the subjects of France do not exercise the said fishery but at the distance of 3 leagues from all the coasts belonging to Great Britain, as well those of the continent as those of the islands situated in the said Gulf of St. Lawrence. And as to what relates to the fishery on the coast of the Island of Cape Breton, out of the said gulf, the subjects of the Most Christian King shall not be permitted to exercise the said fishery but at the distance of 15 leagues from the coasts of the Island of Cape Breton; and the fishery on the coasts of Nova Scotia or Acadia,

and everywhere else out of the said gulf, shall remain on the foot of former Treaties” And by Article VI. of the same Treaty, “The King of Great Britain cedes the Islands of St. Pierre and Miquelon in full right to His Most Christian Majesty, to serve as a shelter to the French fishermen; and His said Most Christian Majesty engages not to fortify the said islands; to erect no building upon them but merely for the convenience of the fishery; and to keep upon them a guard of fifty men only for the police.” And by Article IV. of the Treaty of Versailles, 1783, that “His Majesty the King of Great Britain is maintained in his right to the Island of Newfoundland and to the adjacent islands, as the whole were assured to him by the XIIIth Article of the Treaty of Utrecht, excepting the Islands of St. Pierre and Miquelon, which are ceded in full right by the present Treaty to His Most Christian Majesty.” And by Article V of the said last-named Treaty that “His Majesty the Most Christian King, in order to prevent the quarrels which have hitherto arisen between the two nations of England and France, consents to renounce the right of fishing, which belongs to him in virtue of the aforesaid Article of the Treaty of Utrecht, from Cape Bonavista to Cape St. John, situated on the eastern coast of Newfoundland, in 50° north latitude; and His Majesty the King of Great Britain consents, on his part, that the fishery assigned to the subjects of His Most Christian Majesty, beginning at the said Cape John, passing to the north and descending by the western coast of the Island of Newfoundland, shall extend to the place called Cape Ray, situated in 47° 50' latitude. The French fishermen shall enjoy the fishery which is assigned to them by the present Article as they had the right to enjoy that which was assigned to them by the Treaty of Utrecht.” And by Article VI of said the last named Treaty, that “With regard to the fishery in the Gulf of St. Lawrence, the French shall continue to exercise it conformably to the Vth Article of the Treaty of Paris.” And by a Declaration of His Britanic Majesty, dated the 3rd day of September, 1783, it was declared that “The King, having entirely agreed with His Most Christian Majesty upon the Articles of the Definitive Treaty, will seek every means which shall not only insure the execution thereof, with his accustomed good faith and punctuality, but will besides give, on his part, all possible efficacy to the principles which shall prevent even the least foundation of dispute for the future.

“To this end, and in order that the fishermen of the two nations may not give cause for daily quarrels, His Britanic Majesty will take the most positive measures for preventing his subjects from interrupting in any manner, by their competition, the fishery of the French during the temporary exercise of it which is granted to them upon the coasts of the Island of Newfoundland; and he will, for this purpose, cause the fixed settlements which shall be formed there to be removed. His Britannic Majesty will give orders that the French fishermen be not incommoded in cutting the wood necessary for the repair of their scaffolds, huts, and fishing vessels.

“The XIIIth Article of the Treaty of Utrecht, and the method of carrying on the fishery, which has at all times been acknowledged, shall be the plan upon which the fishery shall be carried on there; it shall not be deviated from by either party; the French fishermen building only their scaffolds, confining themselves to the repair of their fishing vessels, and not wintering there; the subjects of His Britannic Majesty, on their part, not molesting in any manner the French fishermen during their fishing nor injuring their scaffolds during their absence.

“The King of Great Britain, in ceding the Islands of St. Pierre and Miquelon to France, regards them as ceded for the purpose of serving as a real shelter to the French fishermen, and in full confidence that these possessions will not become an object of jealousy between the two nations, and that the fishery between the said Islands and that of Newfoundland shall be limited to the middle of the channel.”

And by a Counter-Declaration of His Most Gracious Majesty the King of France, dated the 3rd day of September, 1783, it was declared that “The principles which have guided the King in the whole course of the negotiations which preceded the re-establishment of peace must have convinced the King of Great Britain that His Majesty has had no other design than to render it solid and lasting, by preventing as much as possible, in the four quarters of the world, every subject of discussion and quarrel.

“The King of Great Britain undoubtedly places too much confidence in the uprightness of His Majesty’s intentions not to rely upon his constant attention to prevent the Islands of St. Pierre and Miquelon from becoming an object of jealousy between the two nations.

“As to the fishery on the coasts of Newfoundland, which has been the object of the new arrangements settled by the two Sovereigns upon this matter, it is sufficiently ascertained by the Vth Article of the Treaty of Peace signed this day, and by the Declaration likewise delivered to-day by His Britannic Majesty’s Ambassador Extraordinary and Plenipotentiary; and His Majesty declares that he is fully satisfied on this head.

“In regard to the fishery between the Island of Newfoundland and those of St. Pierre and Miquelon, it is not to be carried on by either party but to the middle of the channel; and His Majesty will give the most positive orders that the French fishermen shall not go beyond this line. His Majesty is firmly persuaded that the King of Great Britain will give like orders to the English fishermen.”

And by further Treaties between the said Great Contracting Parties, viz., by Article VIII of the Treaty of Paris, 1814, it was agreed that "His Britannic Majesty, stipulating for himself and his allies, engages to restore to His Most Christian Majesty, within the term which shall be hereafter fixed, the Colonies, fisheries, factories, and establishments of every kind which were possessed by France on the 1st January 1792, in the seas, on the Continents of America, Africa, and Asia, with exception, however, of the Islands of Tobago and St. Lucia, and the Isle of France and its dependencies, especially Rodrigues and the Sechelles, which several Colonies and possessions His Most Christian Majesty cedes in full right and sovereignty to His Britannic Majesty, and also the portion of St. Domingo ceded to France by the Treaty of Basle, and which His Most Christian Majesty restores in full right and sovereignty to His Catholic Majesty." And by Article XIII of the said last-named Treaty that "The French right of fishery upon the Great Bank of Newfoundland upon the coasts of the island of that name, and of the adjacent islands in the Gulf of St. Lawrence, shall be replaced upon the footing in which it stood in 1792." And by Article XI of the Treaty of Paris, 1815, that "The Treaty of Paris of the 30th May, 1814, and the Final Act of the Congress of Vienna of the 9th June, 1815, are confirmed, and shall be maintained in all such of their enactments which shall not have been modified by the Articles of the present Treaty."

Under the provisions of these Treaties the French have hitherto maintained:—

1. That they enjoy an exclusive right of fishery on that portion of the coast of Newfoundland between Cape St. John and Cape Ray, passing round by the north of the island.

2. That all British fixed settlements, of whatever nature, on that portion of the coast are contrary to Treaty.

The British Government, on the other hand, have maintained:—

1. That British subjects have a right to fish concurrently with the French, so long as they do not interrupt the latter.

2. That the undertaking in the Declaration of 1783, to cause the removal of fixed settlements, referred only to fixed fishing settlements, and that fixed settlements of any other kind are not contrary to the Declaration.

French fishermen have moreover been in the habit of fishing the rivers, and of barring them with nets or weirs, interrupting the free circulation of salmon, and thereby causing great injury to the salmon fishery.

The British Government, however, have always maintained that the French have no right to the fisheries in rivers.

The Government of France each year during the fishing season employ ships of war to superintend the fishery exercised by their countrymen, and in consequence of the divergent views entertained by the two Governments respectively as to the interpretation to be placed upon the Treaties, questions of jurisdiction, which might at any moment have become serious, have repeatedly arisen.

Such being the provisions of the Treaties, and the construction placed upon them by the Governments and subjects of the two countries, practical difficulties have naturally occurred, and it has become of urgent importance that they should be removed.

The colonists have for some years past been desirous of developing the resources of their country as regards mines, agriculture and other industries; but have constantly been met with the objections of the French Government to their doing so, and the development of the colony on that part of the coast of Newfoundland where the French enjoy Treaty rights has been practically at a standstill, although rich mines are known to exist there, and the agricultural capabilities of the colony are undoubtedly most valuable.

Your Government are aware that the present commission is the eighth which has been appointed since the year 1846 for a settlement of the Newfoundland Fishery question, and it may be useful here to recapitulate briefly the various terms which have been proposed in the previous negotiations as a basis of settlement, in order to show distinctly how much more favourable to the colony is the present Arrangement as compared with the terms proposed on any previous occasion.

In the year 1844 the French Government proposed negotiations to be held in London, and previous to opening them it was determined to appoint a British and French Commissioner in Newfoundland to report upon the question.

Captain Fabvre, commander of the French naval station, and Mr. Thomas, president of the Chamber of Commerce at Newfoundland, were, in consequence, appointed by their respective Governments.

On the 30th July, 1844, Mr. Thomas made his report to the Governor. In this Report he suggested, with regard to the French claim of "exclusive rights," that the respective fishermen of both nations should be kept separate and distinct in their fishing places. He also suggested the extension of the French fishery limits to Belle Isle North, and made suggestions with regard to the sale of bait to French fishermen.

This report resulted in negotiations being held in Paris in the month of March 1846.

The British Commissioner, Sir A. Perrier, was authorized to offer, in exchange for the French cession of all rights between Cape Ray and Bonne Bay, the following concessions :

Admission of *exclusive* right of fishery from Bonne Bay to Cape St. John, going round by the north.

Exclusive right of French fishery, drying, and curing at Belle Isle North.

Permission for English fishermen to sell bait at St. Pierre.

At preliminary conferences held in Newfoundland, these measures had nearly been agreed to by Mr. Thomas and Captain Fabvre ; but Captain Fabvre was desirous of retaining for France, in addition to the exclusive rights above mentioned, her rights of fishing, curing fish, &c, at Cod Roy, Red Island, Port-à-Port, and Lark Harbour, and to acquire for the French a "concurrent" right of fishery on the coast of Labrador.

The instructions, however, to the French Commissioner did not admit of his negotiating on the above-mentioned principles, and as no new propositions were brought forward by the French Government up to the month of May 1847, the negotiations fell through.

On the application of the French Government in 1851 negotiations were renewed, Sir A. Perrier being again directed to proceed to Paris to act as British Commissioner, M. de Bon being appointed on the part of France.

The British Commissioner was instructed to invite proposals from the French Commissioner such as might form a starting-point in the negotiations.

M. de Bon accordingly proposed, on the part of France, to admit the right of British subjects to inhabit the Bay of St. George, or, in other terms, to give up the exclusive right of fishery in that bay, to which they considered themselves entitled by the treaty of 1783. In return for this concession he demanded :

1. The right to purchase and fish for bait (herring and caplin) on the south coast of Newfoundland, without restriction.

2. The right to fish during two months of the year (without curing or drying on shore) on that part of the coast of Labrador situated between the Isles Vertes and the Isles St. Modeste, both included; and

3. The right of fishery at Belle Isle North, in the Straits, which the French commissioner asserted was enjoyed by the French up to 1841, without any demur on the part of Great Britain:

The concessions demanded by the French negotiator were not considered admissible, and the British Commissioner, in order to overcome the difficulties arising out of the claim of Great Britain to a concurrent right of fishery, suggested that the question would be best settled if the rights of the fishermen of the two nations were kept separate and distinct. In order to carry out this suggestion, he proposed that the French rights should be made exclusive as against British subjects from Cape St. John to some point on the western coast, such as Cape Verte (Green Pointe, to the north of Bonne Bay); the French, on the other hand, to renounce their right altogether on the remainder of the coast, which would be that part where the British had been in the habit of carrying on the herring fishery and other fisheries incidental to the requirements of a fixed population.

The French negotiator offered no objection to the plan of recognizing the French "exclusive right" on a diminished extent of coast; but he contended for the retention of a "concurrent right" on that portion of the coast on which their exclusive claim might be renounced, and for other advantages as well, such as admission, concurrently with British fishermen, to the fisheries of Labrador and North Belle Isle, and to the "bait fishery" on the southern coast, all of which, he maintained, were necessary, as an equivalent for admitting British subjects to a free "concurrent right" on the lower portion of the western coast.

The British Commissioner was disposed to accept the demands of the French so far as to extend the French fishery to North Belle Isle, and also to remove all restrictions on the purchase of "bait," on condition that the French should entirely renounce their rights between Cape Verte and Cape Ray; and in June 1855 he forwarded to the Foreign Office the above suggestions in the form of a counter-proposal to those which had been made by France.

Mr. Labouchere, Her Majesty's Secretary of State for the Colonies, concurred in the adoption of the British negotiator's project of a "compromise" as the basis of negotiation to be offered to the French Government. It corresponded, he believed, with the views of the Colonial authorities; deprived neither nation of any advantage of real value; and there would only be a reciprocal abandonment of barren rights and

useless or nominal restrictions; and he prepared a draft Treaty which might be substituted for the whole of the existing engagements on the Newfoundland Fisheries question.

The negotiations were continued in the year 1856 by Captain Pigeard, who arrived in London in the month of July of that year, and by Mr. Merivale, the Under-Secretary of State for the Colonies. The basis of these negotiations was founded upon the counter-proposals made by Sir A. Perrier, and also upon the draft of the Treaty proposed by Mr. Labouchere. The negotiations finally terminated by the signature of a Convention in London on the 17th January, 1857.

According to the stipulations of this Convention, a printed copy of which is annexed, an exclusive right of fishery and the use of the strand for the fishery purposes was conceded to the French from Cape St. John, on the east coast of Newfoundland, to the Quirpon Islands, and from the Quirpon Islands, on the north coast, to Cape Norman, on the west coast, in and upon the following five fishery harbours, namely, Port-au-Choix, Small Harbor, Port-au-Port, Red Island, and Cod Roy Island, to extend, as regarded these five harbors, to a radius of 3 marine miles in all directions from the centre of each such harbour. On other parts of the west coast (the five harbors excepted) British subjects were to enjoy a "concurrent" right of fishing with French subjects, but French subjects were to have the exclusive use of the strand for fishery purposes from Cape Norman to Rock Point, in the Bay of Islands, north of the River Humber, in addition to the strand of the reserved harbours.

A "concurrent" right of fishing was also granted to French subjects on the coast of Labrador, from Blanc Sablon to Cape Charles, and of North Belle Isle.

With regard to the question of fixed establishments, the Convention of 1857 stipulated that no British buildings or inclosures should be erected or maintained on the strand reserved for French exclusive use. It was provided, however, that buildings which had stood for five successive seasons previous to the date of the Convention, without objection on the part of the French Government, should not be liable to removal without equitable compensation to the owners from the French Government. By the Convention a limited right of jurisdiction was conceded to the French, and French naval officers were to have the power to enforce the French exclusive rights of fishing by the expulsion of vessels or boats attempting concurrent fishing, in the case of there being no British cruising vessel in sight or made known to be present within a distance of 5 marine miles. French naval officers were likewise entitled to take such measures as occasion might require to put French fishermen in possession of any portion of the strand of which their exclusive use for fishery purposes was recognized by the Convention.

It will thus be seen that, according to the terms of the Convention of 1857, France would have obtained an *exclusive* right of fishery on the northern extremity and northeastern coast of Newfoundland, and also on five points on the western coast of the island.

This Convention did not come into force, owing to the objections raised by the Government of Newfoundland.

In the year 1859 a Mixed Commission, composed, on the part of Great Britain, of Captain Dunlop and Mr. Kent (Colonial Secretary in Newfoundland), and, on the part of France, of M. de Montaignac de Chauvance and M. de Gobineau, was appointed to verify facts connected with the infraction of the Treaties; and at the close of that year the Commissioners furnished their Report, accompanied by recommendations which led to the reopening of negotiations in 1860.

The terms of a Convention, and of Joint Instructions to be given to the British and French naval officers on the Newfoundland Station, were then agreed on, and are enclosed (Inclosure 3), but the negotiations fell through, mainly in consequence of the wording of Articles 4 and 15 of the Joint Instructions.

The 4th Article related to the punishment of offenders in fishery disputes, and the 15th Article had reference to the removal of such buildings on the French shore as might interfere with the French fishery, with regard to which it was found impossible to reconcile the conflicting views.

It may be useful to quote *in extenso* the latter Article, as the use of one word in it contributed more than anything else to the failure of the negotiations.

It was to the following effect in the French version :—

“Toute construction qui sera élevée à l’avenir sans le consentement de la Commission des Pêcheries sera enlevée par l’ordre du Commissaire Britannique et sans indemnité, dans un délai de six mois de la notification qui en sera faite, si la place occupée par la dite construction est *requise* pour les besoins de la pêche Française.”

It was proposed to substitute the words: “faite par la Commission que la place occupée par la dite construction est *nécessaire* pour les besoins de la pêche Française.”

This alteration was proposed by the British Government in order to make the erections removable, not on a requisition from the French

Government or its officer, but on notice from a Commission of which a British officer was a member. To this alteration the French Government objected on grounds with which it was difficult to deal, because they proceeded from an acknowledged difference of view between the two Governments. The British Government would, however, have been willing subsequently to waive their objections with regard to the wording of the 4th and 15th Articles of the Stipulations which were framed in 1860, and to accept the arrangement with some trifling modifications; but on the matter being referred to the French Government the proposal was rejected, nor did the French Government give any reasons for their refusal to accept it.

In the month of October 1874 negotiations were again renewed with the French Government, Captain (afterwards Admiral) Miller being appointed on the part of Her Majesty's Government, and Captain de Boissoudy on that of France, and were continued, with various interruptions, during the course of the years 1875 and 1876, and, as you are aware, were not productive of any settlement.

In the course of these negotiations Her Majesty's Government received the assistance of Sir F. Carter, Premier of Newfoundland, who was in England at the time.

The arrangement which was originally contemplated on this occasion was founded on Resolutions, dated the 23rd April, 1874, adopted by the Newfoundland House of Assembly, and concurred in by the Legislative Council, and it embraced the following stipulations :—

1. The establishment of a Joint Naval Commission to take cognizance only of such matters as related to the fisheries; and in case of disagreement, reference to be made to the respective Governments, all other questions to be dealt with by competent authorities.

2. That the existing British Settlements in St. George's Bay, Cod Roy, and Bay of Islands, Bonne Bay, and White Bay should remain undisturbed, and no interruption to be made by the French to fishing by the British in those bays, nor interference with their buildings and inclosures there, nor with any erections or buildings on any part of the coast where the French enjoy a temporary right of fishery which did not actually interfere with the fishery privileges of the French, as should be determined by the Commissioners; nor were British subjects to be molested in fishing on any part where they did not actually interrupt the French by their competition.

3. That no building or inclosure which had been erected for five years should be removed as interfering with the French fishery privi-

leges without compensation to be determined on by the Commissioners; but no compensation to be payable for any such building or inclosure hereafter erected without the consent of the Commissioners.

4. That the Commissioners should determine the limit or boundary line to which the French might prosecute their fishery, the British having the exclusive right of salmon and all other fishing in rivers.

5. That the breadth of strand of which the French should have the right of temporary use for fishery purposes should be defined; thus removing objections to grants of land for all purposes beyond the boundary so to be defined, and within the same for mining purposes; right being reserved to the British Government to erect on such strand works of a military or other public character, and to the British subjects for wharves and buildings necessary for mining, trading, and other purposes apart from the fishery, in places selected with permission of Commissioners.

It was further recommended that the Colonial Legislature should state to her Majesty's Government that they were not prepared to agree to any concessions to the Government of France which would convey to the French rights of fishery which they did not at present possess under existing Treaties; but that they would recommend the Legislature to consent that the valuable and important right to purchase bait, both herring and caplin, on the southern coast, should be conceded to the French at such times as British subjects might lawfully take the same upon terms which were to be agreed upon.

During the course of the negotiations which took place certain modifications of the above terms were introduced, which it is unnecessary to dwell upon here, inasmuch as the negotiations came to no result; but the above extracts have been quoted in order to show the nature of the arrangement which at that time was considered by the Government of Newfoundland as offering a satisfactory settlement of the fisheries question, and it is obvious that had an arrangement been entered into at that period on the above-quoted basis, it would have been far less advantageous to the interests of the colony than the one which has now been signed by the British and French Commissioners in Paris.

A period of five years now elapsed before fresh negotiations, by means of a Joint Commission, took place. In the year 1881 a Commission was appointed, Admiral Miller being again the British Commissioner, and Admiral Pierre being named on the part of France.

During the negotiations Sir William Whiteway was in London, and was constantly consulted by Her Majesty's Government as the negotiations proceeded.

Draft Articles were drawn up by the British Commissioner, with the concurrence of Sir William Whiteway, which it was hoped would offer to the French Government a satisfactory basis for discussion, and lead to an agreement being arrived at between the Commissioners of the two respective countries for a settlement of the question.

The basis of this arrangement consisted in the appointment of a Commission, to be called a Commission of Demarcation, whose duty it would be to define and allot certain parts of the strand on which the French might exercise the rights conceded to them by Treaty, and the remainder of the coast to be released from Treaty stipulations; and it was contemplated to allot not more than one-half of any one harbour for the purpose of French use, and the amount of the strand inland was not to extend to a greater distance than one-third of a mile from high-water mark.

Moreover, in the allotments for French use there was to be reserved in each case to the British Government a sufficient space for the erection of wharves, &c., and other public works or buildings, which, however, were not to be erected without previous consent on the part of the French Government.

It was further contemplated that all establishments or settlements existing at the time, British or French, were, under certain provisos, to remain undisturbed.

In addition to the appointment of a Commission of Demarcation, a Mixed Commission was to be appointed, which was to be named the Fishery Commission, and was to act in conformity with Joint Instructions based on the Articles of the Agreement.

The duty of the Fishery Commission was to see that neither British nor French fishermen were interrupted in their fishing operations.

The Fishery Commission was to have power to punish any person contravening its orders or decisions, either by means of fines or seizure of property.

The French were to be allowed to leave their boats, &c., during the winter months, and to erect dwelling-houses for their guardians, who might be either French or British.

The French were to be allowed to purchase bait (both herring and capelin) on shore or at sea, on the southern coast of Newfoundland, at such times as British subjects might lawfully take the same, free from all duty or restriction not equally imposed on British subjects.

The French Commissioner on being made acquainted with the substance of the draft Articles, reported at a meeting of the Commission that the French Government were unable to accept the arrangement embodied in them, stating that the principle of British and French occupying the same harbours and fishing-grounds could never be entertained.

It is not necessary to enter further on these negotiations, as they did not result in any agreement being come to.

On comparing the provisions of the various proposals enumerated above with those embodied in the present Arrangement, the advantages to the colony offered by the latter will at once be seen.

The result under its provisions will be :

1. That fixed settlements of every description will be allowed on the very extended portions of the coast which are tinted in red on the Map, with the exception of fishing establishments which Her Majesty's Government have never contended to be permissible under the Treaties.

2. That the claim of the French to an exclusive right of fishery will be withdrawn, as the Arrangement recognizes the concurrent right of British fishermen to fish everywhere on the coast between Cape St. John and Cape Ray, under the condition of not interfering with or molesting French fishermen when in the exercise of their fishing industry.

3. That the claim of the French to the right of fishing in rivers, except at the mouths, as far as the water remains salt, is withdrawn, and the practise of barring the rivers is prohibited.

4. That all fixed settlements, fishery or otherwise, at present existing within the limits of that portion of the coast over which the French enjoy treaty rights, will not be disturbed.

In previous negotiations the subject of fixed establishments received the earnest consideration of the British negotiators, and it was, on more than one occasion, contemplated to appoint Mixed Commissions to assess the amount of compensation which should be paid to the owners of property whose buildings were to be removed.

However desirable such a course might have been, great difficulty would probably have been experienced in carrying it into effect, and it might have given rise to many vexatious and complicated questions.

No such inconvenience can result under the very satisfactory provision of the present arrangement dealing with this branch of the subject.

In return for the advantages to the colony above enumerated, Her Majesty's Government would, under the present Arrangement, recognize little more than the *de facto* state of things existing as regards the acts of authority exercised every fishing season by the French cruizers in the waters over which the French Treaty rights extend, and the exercise of these acts on the part of French cruizers would only take place in cases of infraction of the very reasonable provisions of this Arrangement, and then only in the absence of any of Her Majesty's cruizers.

I may here observe that a Convention, a copy of which is enclosed, was signed in 1881 at the Hague by the Representatives of certain Maritime Powers for the regulation of the fisheries in the North Sea. This Convention contains very useful provisions for the orderly prosecution of the fisheries in common by fishermen of different nationalities, and some of its provisions have been considered applicable to the case of the Newfoundland fisheries.

The stipulations of the North Sea Convention no doubt apply to waters which are not territorial, still the peculiar fisheries rights granted by Treaties to the French in Newfoundland invest those waters during the months of the year when fishing is carried on in them both by English and French fishermen with a character somewhat analogous to that of a common sea for the purposes of fishery. It could not be expected that the French would give up in favour of the development of the colony the interpretation they place on the Treaties, without obtaining in return some equivalent by which they will in the future be better able to secure for their fishermen the full enjoyment of their fishing industry, and it appears to Her Majesty's Government that little inconvenience is likely to result from the exercise of the limited right accorded to French cruizers by the present Arrangement.

The French Government have invariably maintained that the establishment of a fixed population on any portions of the coast on which they enjoy Treaty rights must result in their ultimate exclusion from those spots, through French fishermen being virtually debarred from enjoying the free and uninterrupted exercise of the fishery rights accorded to them; and they instance the cases of the Bay of St. George on the west coast and of Conche on the east coast, where such a condition of affairs has arisen. —

In agreeing, therefore, to the opening of all those extensive portions of the coast tinted red on the Map to a fixed population, the French Government naturally, and, in the opinion of Her Majesty's

*a mere subterfuge
not they claim to do
or they are not
element of English*

Government, not unreasonably, ask in return that they may be enabled to exercise, in cases where none of Her Majesty's cruizers may actually be present, such an amount of supervision as may insure an uninterrupted enjoyment of the fisheries by their countrymen in these waters

Any inconvenience which might possibly be entailed by this arrangement would be obviated, if necessary, by a closer supervision being exercised on the part of Her Majesty's cruizers of those portions of the coast where the cruizers of the French navy may be stationed, and, indeed, it is contemplated that two of Her Majesty's cruizers should in future cruize more especially off the northern portion of the coast, where the French are in the habit of carrying on their principal fisheries.

It will be further observed that the fishery rights of the British are not in any way curtailed, but are, on the contrary, strengthened; their right of concurrent fishery being, as already pointed out, now recognized by the French.

In conclusion, I have to inform you that Her Majesty's Government have thought it desirable that the British Commissioners who attended the Commission in Paris should proceed to Newfoundland, in order to offer any explanations of the present Arrangement which your Government may desire to receive, and Her Majesty's Government confidently trust that your Ministers will view the Arrangement in the same light as that in which it is regarded by Her Majesty's Government, namely, as being a most advantageous one to the interests of the Colony, and as affording a means of avoiding the recurrence of those irritating questions which have so constantly arisen in connection with the Newfoundland Fisheries question, and, moreover, as greatly diminishing the risk of any conflicts between the fishermen of the two nations.

The British Commissioners will sail for Newfoundland on the 17th instant, and will present this despatch to you on their arrival.

Her Majesty's Government would be gratified if your Ministers should find it in their power to convene a special meeting of the Legislature as soon as may be possible, in order that the necessary Acts may be passed to give effect to those portions of the Arrangement which require legislative action, so that its provisions may be brought into operation at as early a date as possible.

I have the honour to be, Sir,

Your obedient servant,

(Signed), DERBY.

Sir John Glover, G.C.M.G.,
&c., &c., &c.