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NEWFOUNDLAND.

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THE

NEWFOUNDLAND

FRENCH TREATIES ACT, 1891.

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Presented to both Houses of Parliament by Command of Her Majesty.  
*July 1891.*

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1891.



# THE NEWFOUNDLAND FRENCH TREATIES ACT, 1891.

## An Act intituled "An Act for the purpose of carrying into effect engagements with France respecting Fisheries in Newfoundland."

WHEREAS by Treaties and Declarations entered into and exchanged between the Kings of Great Britain and France certain engagements were made and declared relative to Newfoundland and the Islands of St. Pierre and Miquelon and in relation to the Fisheries on a part of the coast of Newfoundland, which Treaties and Declarations are as follows :—

Article 13 of the Treaty of Utrecht (1713), as follows :—

"The Island called Newfoundland, with the adjacent Islands, shall from this time forward belong of right wholly to Great 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 ratification 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 or 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 gulph 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."

Articles 5 and 6 of the Treaty of Paris (1763), as follows :—

"Article 5.—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 the 13th Article of the Treaty of Utrecht, which Article is renewed and confirmed by the present Treaty (except which relates to the Island of Cape Breton, as well as to the other Islands and coasts in the mouth and in the gulph of St. Lawrence); and his Britannic Majesty consents to leave to the subjects of the most Christian King the liberty of fishing in the gulph of St. Lawrence on condition that the subjects of France do not exercise the said fishery but at the distance of three leagues from all the coasts belonging to Great Britain, as well those of the Continent as those of the Islands situated in the said gulph of St. Lawrence. And as what relates to the fishery on the coast of the Island of Cape Breton out of the said gulph, the subjects of the most Christian King shall not be permitted to exercise the said fishery but at the distance of fifteen leagues from the coast of the Island of Cape Breton; and the fishery on the coasts of Nova Scotia or Arcadia, and everywhere else out of the said gulph, shall remain on the foot of former Treaties.

"Article 6.—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 buildings upon them, but merely for the convenience of the fishery; and to keep upon them a guard of 50 men only for the police."

Articles 4, 5, and 6 of the Treaty of Versailles (1763), as follows :—

"Article 4.—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 13th 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.

“Article 5.—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 degrees 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 St. 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 degrees 50 minutes 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.

“Article 6.—With regard to the fishery in the gulph of St. Lawrence, the French shall continue to exercise it, conformably to the 5th Article of the Treaty of Paris.”

The following Declaration made by His Britannic Majesty upon the signing of the  
Treaty of Versailles:—

“The King, having entirely agreed with his most Christian Majesty upon the Articles of the definite Treaty, will seek every means which shall not only insure the execution thereof with his accustomed good faith and punctuality, and 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 Britannic 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; but 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 13th 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.”

The following counter-declaration of his most Christian Majesty the King of France  
made at the same time:—

“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 5th Article of the Treaty of Peace signed this day, and by the Declaration likewise delivered to-day by his Britannic Majesty’s Ambassador Extra-

ordinary 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.”

Articles 8 and 13 of the Treaty of Paris (1814), as follows :—

“ Article 8.—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 and on the continents of America, Africa, and Asia, with the exception, however, of the Islands of Tobago and St. Lucie, and the Isle of France and its Dependencies, especially Rodrigues and Seychelles, 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.”

“ Article 13.—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 gulph of St. Lawrence, shall be replaced upon the footing in which it stood in 1792.”

Article 11 of the Treaty of Paris (1815), as follows :—

“ The Treaty of Paris, of the 13th of May 1814, and the final act of the Congress of Vienna of the 9th of June 1815, are confirmed, and shall be maintained in all such enactments which shall not have been modified by the Articles of the present Treaty.”

And whereas differences have arisen between Her Majesty the Queen and the Government of the Republic of France respecting the rights of the citizens of the Republic of France as to the catching and canning of lobsters on the said portion of the coast of Newfoundland and the erection of factories or buildings for that purpose, and an Agreement has been made between the High Contracting Parties for the submission to arbitration of the said differences, which Agreement is as follows :—

The Government of Her Britannic Majesty and the Government of the French Republic having resolved to submit to a Commission of Arbitration the solution of certain difficulties which have arisen on the portion of the coasts of Newfoundland comprised between Cape St. John and Cape Ray, passing by the north, have agreed upon the following provisions :—

1. The Commission of Arbitration shall judge and decide all the questions of principle which shall be submitted to it by either Government, or by their delegates, concerning the catching and preparation of lobsters on the above-mentioned portion of the coasts of Newfoundland.

2. The two Governments engage, in so far as each may be concerned, to execute the decisions of the Commission of Arbitration.

3. The *modus vivendi* of 1890 relative to the catching and preparation of lobsters is renewed purely and simply for the fishery season of 1891.

4. As soon as the questions relative to the catching and preparation of lobsters shall have been decided by the Commission, it may take cognizance of other subsidiary questions relative to the fisheries on the above-mentioned portion of the coasts of Newfoundland, and upon the text of which the two Governments shall have previously come to an agreement.

5. The Commission of Arbitration shall be composed—

(1.) Of three specialists or jurisconsults designated by common consent by the two Governments.

(2.) Of two delegates of each country, who shall be the authorised channels of communication between the two Governments and other arbitrators.

6. The Commission of Arbitration thus formed of seven members shall decide by majority of votes and without appeal.

7. It shall meet as soon as possible.

Done at London, the 11th day of March 1891.

And whereas the said High Contracting Parties have agreed to extend for the fishery season of 1891 the *modus vivendi* agreed to in 1890, which was as follows:—

The questions of principle and of respective rights being entirely reserved on both sides, the British and French Governments agree that the *status quo* shall be maintained during the ensuing season on the following bases:—

Without France or Great Britain demanding at once a new examination of the legality of the installation of British or French lobster factories on the coasts of Newfoundland, where the French enjoy rights of fishing conferred by the Treaties, it is understood that there shall be no modification in the positions (“emplacements”) occupied by the establishments of the subjects of either country on the first of July one thousand eight hundred and eighty-nine, except that a subject of either nation may remove any such establishment to any spot on which the commanders of the two naval stations shall have previously agreed.

No lobster fisheries which were not in operation on the first of July one thousand eight hundred and eighty-nine shall be permitted unless by the joint consent of the commanders of the British and French naval stations.

In consideration of each new lobster fishery so permitted it shall be open to the fishermen of the other country to establish a new lobster fishery on some spot to be similarly settled by joint agreement between the said naval commanders.

Whenever any case of competition in respect of lobster fishery arises between the fishermen of either country, the commanders of the two naval stations shall proceed on the spot to a provisional delimitation of the lobster fishery grounds, having regard to the situations acquired by the two parties.

N.B.—It is well understood that this arrangement is quite provisional, and shall only hold good for the fishing season which is about to open.

Be it therefore enacted by the Governor, Legislative Council, and House of Assembly in Legislative Session convened:

(1.) In case Her Majesty, Her heirs and successors, by advice of Her or their Council, shall give orders or instructions to the Governor of Newfoundland, or to any officer or officers on that station, which She or they deem necessary and proper to fulfil the purposes of the said Treaties, Declarations, and Agreements, and to that end shall give orders and instructions to the Governor or officer or officers aforesaid, to remove or cause to be removed any stages, flakes, train fats, or other works whatever, for the purpose of carrying on the fishery erected by Her Majesty’s subjects on that part of the coast of Newfoundland which lies between Cape St. John, passing to the north and descending to the Western coast of the said Island to the place called Cape Raye, and also all ships, vessels, and boats belonging to Her Majesty’s subjects which shall be found within the limits aforesaid; and also in case of refusal to depart from within the limits aforesaid, to compel any of Her Majesty’s subjects to depart from thence, any law, custom, or usage to the contrary notwithstanding; any acts done by the said Governor, or officer or officers, in pursuance of such orders or instructions as aforesaid shall be lawful, and no action, suit, or other proceeding shall be brought or maintained in respect of the same.

(2.) In case Her Majesty, Her heirs and successors, by advice of Her or their Council, shall give orders or instructions to the said Governor, or officer or officers, which She or they deem necessary for the purpose of carrying out or enforcing the said *modus vivendi* during the fishery season of 1891, or any continuation thereof pending the arbitration aforesaid, and for the purpose of giving effect to the decision in said arbitration, any acts done by the said Governor, or officer or officers, in pursuance of such orders or instructions shall be lawful, and no action, suit, or other proceeding shall be maintained in respect of the same.

(3.) If any person shall refuse, upon requisition made by the said Governor, or officers lawfully acting in pursuance of such orders or instructions as aforesaid, to conform to such requisition and directions as the said Governor or officers shall lawfully make or give for the purpose aforesaid, such person so offending shall forfeit the sum of two hundred dollars; provided always that every such suit or prosecution shall be commenced within one year from the commission of such offence.

(4.) This Act may be cited as the “Newfoundland French Treaties Act,” and shall continue in force only until the end of 1893 and no longer.