

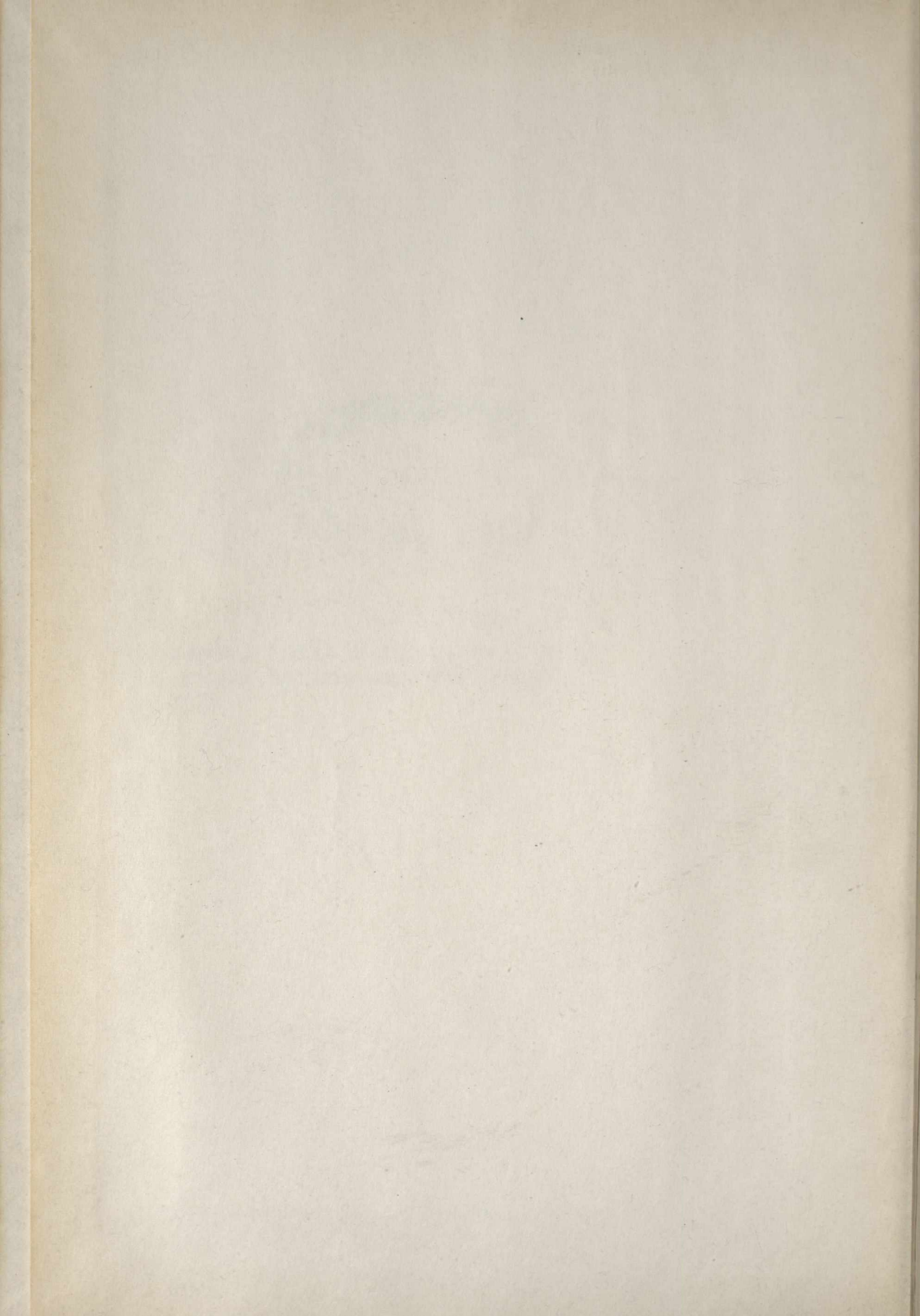


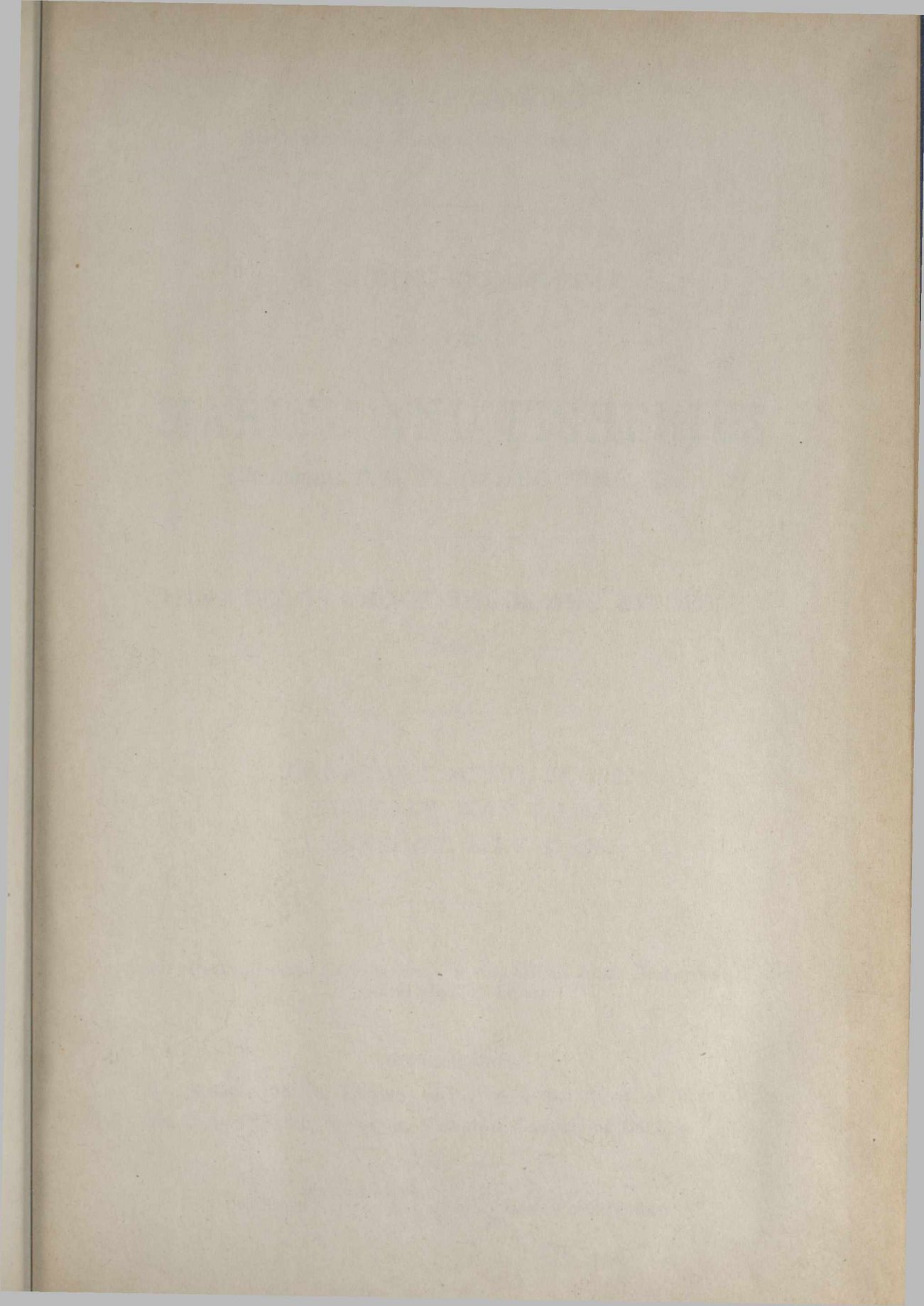


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HOUSE OF COMMONS

Sixth Session—Twenty-first Parliament, 1952

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STANDING COMMITTEE

ON

# MARINE AND FISHERIES

*Chairman:* T. G. W. ASHBOURNE, Esq.

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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 1

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THURSDAY, APRIL 24, 1952

TUESDAY, MAY 6, 1952

THURSDAY, MAY 8, 1952

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Draft International Convention for the High Seas Fisheries of the  
North Pacific Ocean.

WITNESSES:

Mr. Stewart Bates, Deputy Minister, Department of Fisheries;

Mr. C. G. O'Brien, Manager, Fisheries Council of Canada.

STANDING COMMITTEE  
ON  
MARINE AND FISHERIES

Chairman: T. G. W. Ashbourne, Esq.

Vice-Chairman: A. W. Stuart, Esq.

Messrs:

Applewhaite	Fulford	Macdonald ( <i>Edmonton</i>
Arsenault	Gibson	<i>East</i> )
Balcom	Gillis	MacInnis
Bennett	Harrison	MacLean ( <i>Queens</i> )
Black ( <i>Cumberland</i> )	Henderson	MacNaught
Blackmore	Higgins	Maltais
Blair	James	McLean ( <i>Huron-Perth</i> )
Breton	Kirk ( <i>Antigonish-</i>	McLure
Cannon	<i>Guysborough</i> )	Mott
Catherwood	Langlois ( <i>Gaspé</i> )	Pearkes
Cavers	Leger	Stick
Côté ( <i>Matapedia-Matane</i> )		Thomas

(Quorum—10)

A. SMALL,  
Clerk of the Committee.



## ORDERS OF REFERENCE

HOUSE OF COMMONS,  
TUESDAY, March 18, 1952.

*Resolved*,—That the following Members do compose the Standing Committee on Marine and Fisheries:—

Messrs:

Applewhaite	Fulford	MacInnis
Arsenault	Gibson	MacLean ( <i>Queens</i> )
Ashbourne	Gillis	MacNaught
Balcom	Harrison	Maltais
Bennett	Henderson	McLean ( <i>Huron-Perth</i> )
Black ( <i>Cumberland</i> )	Higgins	McLure
Blackmore	James	Mott
Blair	Kirk ( <i>Antigonish-</i> <i>Guysborough</i> )	Pearkes
Breton	Langlois ( <i>Gaspé</i> )	Stick
Cannon	Leger	Stuart ( <i>Charlotte</i> )
Catherwood	Macdonald ( <i>Edmonton</i> <i>East</i> )	Thomas—35.
Cavers		
Côté ( <i>Matapedia-Matane</i> )		

(Quorum 10)

*Ordered*,—That the Standing Committee on Marine and Fisheries be empowered to examine and inquire into all such matters and things as may be referred to them by the House, and to report from time to time their observations and opinions thereon; with power to send for persons, papers and records.

WEDNESDAY, April 9, 1952.

*Ordered*,—That the subject-matter of the Japanese Fishing Treaty negotiated in Tokyo last December, between United States, Japan and Canada, be referred to the said Committee.

WEDNESDAY, April 23, 1952.

*Ordered*,—That the name of Mr. Wood be substituted for that of Mr. Cavers on the said Committee.

THURSDAY, April 24, 1952.

*Ordered*,—That the said Committee be empowered to print, from day to day, 1,000 copies in English and 250 copies in French of the Minutes of Proceedings and Evidence and that Standing Order 64 be suspended in relation thereto.

*Ordered*,—That the said Committee be granted leave to sit while the House is sitting.

## STANDING COMMITTEE

WEDNESDAY, May 7, 1952.

*Ordered*,—That the name of Mr. Herridge be substituted for that of Mr. MacInnis on the said Committee.

THURSDAY, May 8, 1952.

*Ordered*,—That the number of copies to be printed of the Minutes of Proceedings and Evidence of the said Committee be increased from 1,000 copies in English to 2,000, and from 250 copies in French to 500 and that Standing Order 64 be suspended in relation thereto.

Attest.

LEON J. RAYMOND,  
*Clerk of the House.*

REPORTS TO THE HOUSE

THURSDAY, April 24, 1952.

The Standing Committee on Marine and Fisheries begs leave to present the following as a

FIRST REPORT

Your Committee recommends:

1. That it be empowered to print, from day to day, 1,000 copies in English and 250 copies in French of the Minutes of Proceedings and Evidence and that Standing Order 64 be suspended in relation thereto.
2. That it be granted leave to sit while the House is sitting.

All of which is respectfully submitted.

T. G. W. ASHBOURNE,  
*Chairman.*

THURSDAY, May 8, 1952.

The Standing Committee on Marine and Fisheries begs leave to present the following as a

SECOND REPORT

Your Committee recommends that the number of copies of its Minutes of Proceedings and Evidence to be printed be increased from 1,000 copies in English to 2,000, and from 250 copies in French to 500 and that Standing Order 64 be suspended in relation thereto.

All of which is respectfully submitted.

T. G. W. ASHBOURNE,  
*Chairman.*



## MINUTES OF PROCEEDINGS

THURSDAY, April 24, 1952.

The Standing Committee on Marine and Fisheries met at 11.00 o'clock a.m. this day. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs. Applewhaite, Arsenault, Ashbourne, Balcom, Black (*Cumberland*), Blair, Breton, Catherwood, Harrison, Henderson, James, MacLean (*Queens*), MacNaught, McLean (*Huron-Perth*), McLure, Stuart (*Charlotte*), Wood.

The Chairman thanked the Committee for the honour again conferred on him and commented briefly on the business referred by the House to the Committee.

The Orders of Reference, dated March 18 and April 9, 1952, were read by the Clerk of the Committee.

On motion of Mr. Balcom,

*Resolved,*—That Mr. A. W. Stuart be Vice-Chairman of the Committee.

On motion of Mr. Applewhaite,

*Resolved,*—That permission be sought to print, from day to day, 1,000 copies in English and 250 copies in French of the Minutes of Proceedings and Evidence.

On motion of Mr. Harrison,

*Resolved,*—That a Sub-Committee on Agenda and Procedure comprised of the Chairman and 6 Members to be named by him, be appointed.

On motion of Mr. Stuart (*Charlotte*),

*Resolved,*—That permission be sought to sit while the House is sitting.

Copies of the North Pacific Fisheries Convention, referred to the Committee by the House on April 9, 1952, were distributed to the Members present. *See Appendix A to Evidence.*

Following a brief discussion on its Orders of Reference and future program on motion of Mr. MacNaught the Committee adjourned at 11.20 o'clock a.m. until 11.00 o'clock a.m., Tuesday, May 6, 1952.

A. SMALL,

*Clerk of the Committee.*

TUESDAY, May 6, 1952.

The Standing Committee on Marine and Fisheries met at 11.00 o'clock a.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs. Applewhaite, Ashbourne, Balcom, Black (*Cumberland*), Catherwood, Gillis, Harrison, James, Kirk (*Antigonish-Guysborough*), Macdonald (*Edmonton East*), MacNaught, McLean (*Huron-Perth*), McLure, Mott, Pearkes, and Stuart (*Charlotte*).

*In attendance:* Mr. Stewart Bates, Deputy Minister, Mr. G. R. Clark, Assistant Deputy Minister, Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries; and Mr. C. G. O'Brien, Manager, Fisheries Council of Canada, Ottawa.

The Chairman announced the names of Members of the Sub-Committee on Agenda and Procedure in addition to the Chairman, namely: Messrs. Applewhaite, Gillis, MacNaught, Pearkes, Stuart (*Charlotte*), and Thomas.

The Chairman presented the First Report of the Sub-Committee on Agenda and Procedure which is as follows:—

May 5, 1952.

Your Sub-Committee on Agenda and Procedure met on May 5th and has agreed to recommend:

1. That the Draft International Convention for the High Seas Fisheries of the North Pacific Ocean be printed as an appendix to the Minutes of Proceedings and Evidence.
2. That the statement of Mr. Stewart Bates, Deputy Minister of the Department of Fisheries, on the said Convention be heard on Tuesday, May 6 and if possible, that the hearing of his statement be concluded by Saturday, May 10.
3. That, after Mr. Bates' statement has been heard, the Committee adjourn, for approximately 3 weeks, until Tuesday, May 27.
4. That the Clerk of the Committee be instructed to communicate during the adjournment with the interested organizations whose requests to submit representations or give evidence have been tabulated by the Department of Fisheries.

On motion of Mr. Pearkes,

*Resolved*,—That the First Report of the Sub-Committee on Agenda and Procedure be now concurred in.

On motion of Mr. Applewhaite,

*Resolved*,—That all organizations wishing to make representations to the Committee be asked to file, if possible, at least 50 copies of their briefs in advance of May 27 and that such organizations indicate in their replies to the Committee whether or not a representative will appear to give evidence and make representations.

Mr. Bates was called and made his statement, following which he, assisted by Mr. Clark and Mr. Ozere, answered questions asked by Committee Members.

The witness retired.

By leave of the Committee, Mr. O'Brien was called and allowed to read (1) Resolution adopted at the Seventh Annual Meeting of the Fisheries Council of Canada and (2) List of Member Organizations, both of which are incorporated in to-day's evidence.

The witness retired.

At 1.00 o'clock p.m., the Committee adjourned until Thursday, May 8, at 11.00 a.m.

THURSDAY, May 8, 1952.

The Standing Committee on Marine and Fisheries met at 11.00 o'clock a.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present*: Messrs. Applewhaite, Ashbourne, Balcom, Black (*Cumberland*), Blackmore, Blair, Cannon, Catherwood, Gibson, Gillis, Harrison, Herridge, Macdonald (*Edmonton East*), MacLean (*Queens, P.E.I.*), MacNaught, McLean (*Huron-Perth*), Mott, Pearkes, and Stuart (*Charlotte*).

*In attendance:* Mr. Stewart Bates, Deputy Minister, Mr. G. R. Clark, Assistant Deputy Minister, and Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries.

The Chairman announced that the Clerk had written on May 7, 1952, to the interested organizations wishing to make representations to the Committee on the Convention, and that copies of the letter and list of organizations to whom the letter was sent would be placed in Members' mail boxes today.

On motion of Mr. Gibson,

*Ordered,*—That the letter sent by the Clerk on May 7, 1952, including the list of organizations to whom the letter was addressed, be incorporated in today's evidence.

On motion of Mr. Pearkes,

*Resolved,*—That permission be sought to increase the number of copies to be printed of the Minutes and Proceedings of this Committee from 1,000 copies in English to 2,000, and from 250 copies in French to 500.

Mr. Bates was recalled for further questioning, being assisted by Mr. Clark and Mr. Ozere.

The witness retired.

The Chairman informed the Committee that the Sub-Committee on Agenda and Procedure would be called together before May 27 if the replies from the organizations invited to make representations warranted such action.

At 12.15 o'clock p.m., the Committee adjourned until Tuesday, May 27, at 11.000 o'clock a.m.

A. SMALL,  
*Clerk of the Committee.*





## EVIDENCE

May 6, 1952

11:00 a.m.

The CHAIRMAN: Gentlemen, the meeting will please come to order. We have a quorum. I would like to say to those who were not present at the first meeting that we had an organization meeting at which it was ordered that a sub-committee be selected, and in accordance with that motion I would like to announce the selection of that sub-committee on agenda and procedure which will act with me. The names are as follows: Messrs. Applewhaite, Gillis, MacNaught, Pearkes, Stuart (*Charlotte*), and Thomas.

You will remember that at the first meeting Mr. Stuart (*Charlotte*) was elected as vice-chairman of the committee. Your sub-committee met and I would like to present to you its first report:

MAY 5, 1952.

Your Sub-Committee on Agenda and Procedure met on May 5 and has agreed to recommend:

1. That the Draft International Convention for the High Seas Fisheries of the North Pacific Ocean be printed as an appendix to the Minutes of Proceedings and Evidence.
2. That the statement of Mr. Stewart Bates, Deputy Minister of the Department of Fisheries, on the said Convention be heard on Tuesday, May 6 and, if possible, that the hearing of his statement be concluded by Saturday, May 10.
3. That, after Mr. Bates' statement has been heard, the Committee adjourn, for approximately 3 weeks, until Tuesday, May 27.
4. That the Clerk of the Committee be instructed to communicate during the adjournment with the interested organizations whose requests to submit representations or give evidence have been tabulated by the Department of Fisheries.

This report is now before the meeting, gentlemen, and a motion that it be concurred in is now in order.

Mr. PEARKEs: I so move, Mr. Chairman.

Mr. MOTT: I second the motion, Mr. Chairman.

The CHAIRMAN: You have heard it moved and seconded that this report be now concurred in. Is there any discussion on the motion?

Mr. PEARKEs: Regarding the suggestion contained in the report that interested parties be invited, I would just like to refer to a communication which I have received from the United Fishermen and Allied Workers' Union, in which they say that not only does their organization wish to come, but they also suggest such organizations as the Canadian Fishing Vessel Owners' Association in Vancouver and Prince Rupert, the Native Brotherhood of British Columbia, the Fishermen's Co-operatives in Vancouver and Prince Rupert, and the Deep Sea Fishermen's Union in Prince Rupert be communicated with; and I believe such information has already been sent to the deputy minister, because the intimation is that they have communicated that similar information to Mr. Bates.

Mr. MACNAUGHT: All these names are on the list that we have already compiled, Mr. Chairman.

The CHAIRMAN: Following perusal of that list, if the names of these people, which General Pearkes has just read, have not been included, we will get in touch with them and give them a chance to appear. Is there any further discussion on the motion?

You have heard the motion. All those in favour please say "aye"? All those contrary minded will please say "nay". I declare the motion to be carried. Now, perhaps Mr. MacNaught, the parliamentary assistant, might give us his views on the dates of the adjournment and the reason it is needed.

Mr. MACNAUGHT: Mr. Chairman, as you have already pointed out in the report of the sub-committee on agenda and procedure, I think we should adjourn for at least 3 weeks to permit interested parties in British Columbia to prepare their statements and to make arrangements to come here and give their evidence; and I think it was agreed in the committee that that was a reasonable suggestion. I do not think I can add anything further.

The CHAIRMAN: You think that will give them sufficient time, 3 weeks?

Mr. MACNAUGHT: Oh, yes; it was the impression of all the members from British Columbia, that 3 weeks would be ample.

Mr. MOTT: When will these notices be going out?

Mr. MACNAUGHT: Whenever we adjourn, either on Thursday or possibly today.

Mr. MOTT: I think we would need 3 weeks because a lot of these fishermen are at sea, or are along the coast; so I think that 3 weeks from the date of adjournment would be adequate.

The CHAIRMAN: Regarding the organizations which wish to make representations to the committee, it has been thought advisable that requests should possibly be made regarding the filing of briefs before the committee.

Mr. APPLEWHAITE: Mr. Chairman, I move that all organizations wishing to make representations to the committee be asked to file, if possible, at least 50 copies of their briefs in advance of May 27, and that such organizations indicate in their replies to the committee whether or not a representative will appear to give evidence.

I would suggest, if I may, that I be permitted to remove from that motion the last 3 words, "to give evidence." I do not think these people are coming here to give evidence. I think they are coming here to make arguments, and I think that if we stop at "wish to appear", it would be a better motion.

The CHAIRMAN: Is it agreed to strike out the last 3 words "to give evidence"?

Mr. PEARKES: Some of them may give evidence of conditions as they exist on the Pacific coast, and I think they will support their evidence with argument.

Mr. APPLEWHAITE: If you leave it open, they can give evidence; but I do not want to create the impression that they are to come here as witnesses to give evidence. We will have the deputy minister giving evidence, and he will not enter into a discussion of government policy. These people will have the right to do that and they will produce both evidence and argument, possibly. So I suggest that if we say "if you wish to appear", they will be able to give either evidence or argument, but I would not wish to support the idea that everything they say will be evidence.

Mr. BALCOM: Evidence will automatically be given. It is automatic, is it not?

Mr. BLACK: I do not see any objection to allowing the words to remain.

The CHAIRMAN: You are making the motion, Mr. Applewhaite!

Mr. APPLEWHAITE: If we make that motion—and I do not want to be technical about it—we are telling them that they can come here to give evidence. I am not too anxious that they should; but we are certainly inviting them to come here so that they can, if they wish, argue. But if we bring them here only to give evidence, then, perhaps, if that motion should go through in its original form, they would be restricted to evidence. But I think they should be permitted to argue, which is not the same thing.

Mr. PEARKES: Surely it is better to have the evidence given before this committee. This committee is not set up in order that there may be argument for or against government policy. People come here to give evidence which may support or be against government policy. It is possible that they will re-enforce their evidence by argument, but I do not think we should invite people to come down here solely to argue about government policy.

Mr. MACDONALD: Mr. Chairman, Mr. Applewhaite has moved a motion but his motion has not been put yet. It is a motion regarding the last 3 words that are there; that is Mr. Applewhaite's motion; but he can suggest that these people are coming here to give evidence in support of the briefs which they are going to submit.

Mr. MACNAUGHT: I think the whole matter could be cleared up by adding the words "to give evidence and make representations". Instead of cutting out 3 words, I would add 3 more.

Mr. PEARKES: I think that is right. Do you want me to second it?

The CHAIRMAN: The motion is proposed by Mr. Applewhaite and seconded by General Pearkes, and it reads as follows:

That all organizations wishing to make representations to the committee be asked to file, if possible, at least 50 copies of their briefs in advance of May 27, and that such organizations indicate in their replies to the committee whether or not a representative will appear to give evidence and to make representations.

Mr. BLACK: Perhaps the deputy minister will give us the details of what representations they will likely make.

Mr. GILLIS: How can he anticipate that?

Mr. BLACK: So that we can understand what they are coming here to say.

Mr. MACNAUGHT: Are you referring to the deputy minister?

Mr. BLACK: Yes, if you are the deputy minister.

Mr. MACNAUGHT: No. I am the parliamentary assistant.

Mr. BLACK: Or the deputy minister, whoever is preferable.

The CHAIRMAN: This matter that you have brought up, Mr. Black, is really the next item of business, and if you would allow it to remain until that item is called, I would appreciate it. Is there any further discussion on this motion? I shall now put the question. All those in favour will please say "aye". Those contrary minded will please say "nay". I declare the motion to be carried.

I am pleased to announce that we have in attendance here today Mr. Stewart Bates, the deputy minister of the Fisheries Department, and I would like now to call on him to give his statement to the committee and also ask if he might take up the matters which have been spoken of in the committee by Mr. Black.

**Mr. Stewart Bates, Deputy Minister, Department of Fisheries, called:**

The WITNESS: Mr. Chairman and gentlemen: The matter before the committee, the draft Convention for the North Pacific, is a matter of some complexity and I should like to say something in beginning about the background against which the treaty might be considered.

I think the essence of the problem relates to the fishing resources on the high seas. Traditionally the high seas have been regarded as free, free for navigation, and free for fishing.

The particular resources with which we are concerned spend most of their lives in the high seas, and as such they are open to the fishermen of all countries. That concept of the freedom of the seas is, I think, one of the basic concepts of freedom in the minds of men, and it has certainly been so since the 16th century.

Now, in the fisheries on both our coasts, some of the largest bodies of fish spend most of their time in the high seas. In some particular types, they come in shore to spawn. Some may spawn in territorial waters as herrings do, while other types go right up stream to spawn, salmon being the most notable instance. And we begin to feel that we have some propriety right in this fish which spawn in our own waters or in our streams, especially after the government spends money protecting and clearing the streams. After we ask other users of those streams such as power plants to take action for the protection of those fish, we begin to feel we have a proprietary interest. But nevertheless an interest remains in the high seas, and most nations regard these fish as freely swimming resources.

Now the question of territorial waters is basic to every nation that is sea-girt. Many nations with the sea around them no doubt want to try to extend their territorial waters as far as possible, that is, the waters in which they claim the same jurisdiction as they do over their land territory, a jurisdiction not only over their own nationals, but over foreigners; and the committee knows, of course, that territorial waters cover many more things than fish. They cover customs. There are national defence concepts involved, and there are many departments other than fisheries which are interested in the extent of our territorial waters.

In Canada as in the whole commonwealth and as in the United States and some other countries, territorial waters have been measured traditionally on the basis of the 3 mile limit; the 3 mile limit measured from meanderings of the coast. That is the traditional British-American measure. It is accepted broadly internationally. But some countries have long claimed different measures, such as the four mile limit, and in some instances that has been recognized. Others have claimed the 6 mile limit, and still others the 12 mile limit. But the fact remains that in our country and in our neighbour's country the 3 mile limit has been the traditional measure.

If you start from the basic presumption that the seas are free outside the 3 mile limit, you immediately have a major problem in fisheries because the seas are free, there is a danger with respect to fishing and that danger is probably greater today than it has ever been. It is a danger which was recognized on the west coast of this country, and steps were taken to try to prevent it.

On the Atlantic and on the Grand Banks of Newfoundland, St. Pierre, Sable and Brown's—on these banks there has not been, up to the present, evidence of over-fishing of the basic species. But for the first time in history we have evidence of over-fishing on one of the Atlantic banks, George's Bank, and this year for the first time the Americans will have to enter into a type of regulation on this Bank that has been common on the Pacific.

Now, clearly, if the resources are to be conserved, you can only approach it internationally by some co-operative measure, and we have some good examples of such co-operation. The first attempt to regulate anything on the high seas was made in 1911 by Canada, the United States, Japan, and Russia, when there was an attempt to conserve the fur seals. That was the first such attempt to conserve something on the high seas. It was a very easy thing to conserve because the species breeds on one or two islands, and all you had

to do was to stop killing seals on the high seas, allow the species to restore themselves on the islands, and kill them there in whatever numbers were proper. That was a relatively simple conservation problem.

The next example was again Canadian, between Canada and the United States, in halibut on the Pacific coast, which is a very rich fishery, at one time producing 70 million pounds of halibut per year. But that fishing gradually declined. At one time they fished them just off Vancouver, and then they had to go further afield; and by 1920 they were even further away, as far as Alaska and the Aleutians, and the catch had fallen to 37 million pounds.

Canada signed her first treaty in her own right, the Halibut Treaty with the United States. And gradually the stock has been built up. The catch is now 56 million pounds. It was an effort by both Canada and the United States, but again it was not too difficult, because no other country was fishing halibut. It was only the United States and Canada. Japan, Russia and other Asiatic countries were not fishing these waters, so it was a matter between the two of us. We simply conserved it, and we allowed our fishermen a certain quantity. Actually in practice the catch quota is about 55 million pounds today, but there is no regulation as to the division of the quota between us, although there is an over-all quota for both Canada and the Americans.

The next example is that of whales, the International Convention for the Regulation of whaling. A great many countries entered that convention which followed broadly the Canadian-American agreement for halibut. It divided up the oceans, setting out nursery areas for young whales, and it set an over-all quota. But again the fishing is free to any country, actually. While the catch is free to any country, you can go after it with any number of ships you wish to use, but as soon as it is reached, the fishing is cut off by the international commission. But there is no sub-division between anyone.

The next example again is on our Pacific coast, with respect to the sockeye salmon of the Fraser river. You all know the history of the slide at Hells Gate, which resulted when the Canadian National line was built and the subsequent decline of that river with respect to salmon fishing and the attempt to bring it back. This was a Canadian river. Perhaps we could have brought it about alone, but the Fraser river salmon is quite electric; it comes in around the southern end of Vancouver island primarily and it goes through Canadian waters and then it crosses back into American waters in the Juan de Fuca strait. It stays there for 3 or 4 days, subject to American fishing, and then it comes back to Canadian waters at Boundary Bay. Therefore to regulate that fishing there was required a joint undertaking, and that was done.

The next example of a co-operative effort was the Northwest Atlantic Fisheries Commission which was set up in 1949 primarily under the leadership of the United States and Canada. European countries were brought in which have very large fishing, such as Spain, Portugal, Italy, France, the United Kingdom and Norway. They fish the whole Atlantic from the Davis Straits down to Long Island. It is a very large fishery and it is growing in intensity and in numbers, and it uses the most modern equipment imaginable. For example, to sail one of these boats, the skipper almost has to be a university graduate. His wheel house is really a complex mechanism, with every modern device aboard for catching and killing fish. I suppose the committee is aware of the tremendous revolution during the last 10 years, especially in Atlantic coast fishing. Today these fishing craft are trans-oceanic in character; they are almost factory ships, or just one stage removed from it. They have new types of gear. In distinction to some years ago, they can float their gear at any level where the fish happen to be. They can fish now at any level down to 300 fathoms. Moreover, in the wheel house you have such modern devices as lorans and asdics.

A few weeks ago the British began to equip their fleet with a still further device in the wheel house which focuses one's attention at any level or elevation down to 300 fathoms. If you want to see at 50 fathoms down, you simply focus the fish-lens. You can then see what volume of fish are there and what kind. This enables you to float your gear with still more precision. Those of you who followed the finding of the submarine *Affray* last summer will recall that it was a British Admiralty scientist who found her by means of rigging up an underwater television camera for the first time in history. The rig up was quite a complicated procedure. Some of you may have seen the photographs which were taken as they sat in the wheel house and looked into the television screen. Gradually they picked out the conning tower, and then they moved the camera around until they saw the brass letters which typify Her Majesty's Navy nameplate. For the first time you can sit in the wheel house and see under water, and this device will be used some day by the fishing industry, and the marine biologists.

The new development of fishing techniques is forced on the hungry nations, and the hungry nations are on the other side of our oceans, on the other side of the Pacific and the Atlantic. The resources are in the seas, and they can fish them. And with these, they can earn either dollars or sterling, because they can sell fish in either dollar or sterling markets. They can turn them into either frozen fish, packaged fillets, or into a salted product. On the Atlantic, in 1949, Canada, the United States and the European countries set up a Northwest Atlantic Commission to try to handle the forthcoming conservation problems on the Atlantic. These are straight conservation measures, attempts to conserve species in the sea. And as I say, these measures have been very successful on our Pacific coast, where there are primarily just two countries interested.

The experiment on the Atlantic will be an interesting one, where there are 10 nations involved. That commission is a straight conservation commission with no regulatory powers. But probably it will have to look ahead to some modifications because there are other problems on the Atlantic such as the rule of the road, where you have many nations fishing on the banks, and where there may be the tangling up of fixed gear. That is a different kind of problem, a growing problem of complexity on the Atlantic.

Fishing is now being done down to the 3 mile limit with absolute precision. It is not like some years ago where there was doubt. When our patrol ships questioned a foreign vessel fishing on the south coast of Newfoundland a few weeks ago, our patrol officer spoke to the vessel by radio telephone and said: "You are very close to the 3 mile limit"; and they replied: "We know that; we are exactly 250 yards from the 3 mile limit, because we have just taken our bearings." So you see, they can fish precisely down to that limit.

Perhaps it is a little far afield from the Tripartite Convention of the North Pacific but I feel this is all part of the complexity of the problem, and a major concern to the people of Canada and the United States in the future, because the great resources of the world are off our coasts.

On the other side of the oceans the hungry nations fish intensively in their own waters, and they are coming across the ocean, particularly the Atlantic, to fish the resources adjacent to our shores. We and the United States may have to establish conservation and regulation of those fisheries. Some day we may wish to use those resources in a bigger way than we are doing today.

Now the essence of the problem is this: With free fishing on the high seas can you conserve the species by a conservation program established under an international agreement? The next question is: If two countries conserve a stock by agreement, and a third country comes in to fish that resource, what can you do about it? The third country is fishing on the high seas and

she is free to do so, yet we and the United States, in the case of halibut for example, have built up this stock; we have put that money in the bank. We regulate our own fishermen and allow them to fish less than they want to. In some cases we regulate the season. With salmon we close them down for 72 hours each week; the fishermen and the canneries are idle as the salmon are given a week-end to move up-river to the spawning grounds. The fishing industry makes a contribution to conservation in that kind of way. And if the governments and the industry built up such stocks, how can you prevent a third party taking it?

There have been suggestions made that you should extend your territorial sovereignty out into the high seas. Some years ago, in 1945, a proclamation was made by Mr. Truman in the United States, which many people thought amounted to just that: That the United States would declare sovereignty over the high seas adjoining their coasts. Some other nations interpreted it that way, particularly Latin American nations, and they issued a declaration in turn, much more precise than the American. Some of them declared that they would exercise sovereignty zones over from 150 to 200 miles out to sea; that they regarded the zone as territorial waters, and that other countries were to refrain from fishing therein. The United States State Department was quick to point out to those countries that the United States would not respect any such unilateral declaration of sovereignty over the high seas by any single nation. She indicated that she viewed with sympathy their desire to conserve and perpetuate particular fisheries, but she argued that any such extension of sovereignty was at variance with principles of international law, and that she would not respect these declarations by other countries. Later the State Department made a statement (29 Nov. 1948) that we should "Note carefully there was no mention in this proclamation of an extension of sovereignty beyond territorial waters, nor an exclusion of fishermen of any nationality from any fishing". In other words, whereas some people thought that the United States was enunciating a new principle in international law when she made the Truman declaration, in fact she was not. In fact all she was saying was that she was willing to set up conservation zones with other nations for the conservation of fish.

So you will not find a solution simply by trying to extend your territorial waters out to sea. You may make a declaration extending your territorial waters, but if other countries will not respect your declaration, what do you do? You either back down, or you fight.

It has been suggested that we should make such a declaration from many points of view, and that it would be a very nice thing if we could say that our territorial waters extended out, let us say, 600 miles from Nova Scotia, covering the Grand Banks of Newfoundland. That would be very satisfactory in containing a part of the world resources for Canada. But for the reasons I have mentioned above, that is impossible. So we have to seek a solution by some other means.

It has been suggested on the Pacific coast that we set out a zone of 50 or 150 miles; but the same problem arises, and on the Pacific perhaps it might be unwise, even if you could do it. Of all the countries bordering the Pacific, Canada has, I think, the shortest shore line. Our shore front is only some 600 miles on the Pacific; we have only a short water front, compared with the United States, Chili, Russia, Japan, China, and the Philippines. And if the Pacific were zoned on the basis of territorial waters, our zone would be one of the smallest. And even if we could zone it, to do so might be unwise, because already our fishermen fish outside that zone.

So now we get to this particular convention which is an attempt to carry forward the idea of conservation on the high seas, and an attempt to get international recognition of the fact that when one or more nations have conserved

the fisheries as we have, other nations will recognize that we have acquired certain rights to that fishing. It is an attempt to get other nations to recognize that, when a stock has been built up, as we have built up the salmon, halibut, and herring, it is only right and proper that they should restrain their nationals from fishing these resources, because if they did not, we would no longer conserve it. I think that would be an inevitable consequence if a third country began fishing Pacific halibut, it would be very difficult for us and the Americans to continue to restrain our fishermen and to build up stock. It would make conservation, perhaps, impossible. Of course, the third country might come in and say: We will enter the halibut convention just as we would enter the whaling convention. We will fish halibut, and when the quota is reached, we will stop fishing along with you, just as we stop fishing whales, when the quota is reached. So the new convention had to move a step beyond that: It had to find a new solution along different lines.

Now this matter has been under discussion between Canada and the United States informally for some years. It has been discussed between the United States State Department and our Departments of External Affairs and Fisheries, and the many ramifications of our attempts to preserve for ourselves the resources which we have built up have been discussed over a long time. The tri-partite conference in Japan brought those discussions to a conclusion. When we went to Japan with the United States to discuss the North Pacific ocean problems and the convention, the draft that was proposed was a product of those Canadian-American discussions over a long period of time. As I shall try to explain later, that draft contained within it also some very important principles that had been inserted at Canada's insistence.

The first step in extending conservation agreements with a third country was an attempt to bring in Japan. Of the nations on the Pacific, she was the one most likely to begin fishing on our side. She is traditionally a big fishing power. Eighty per cent of her protein comes from the sea; she has a big population and she must get as many of the free resources of the world as possible. She had lost her salmon fisheries at Kamchatka to Russia and she had lost her salmon fishing area along the Kurile Archipelago. Japan knows how to fish and it was expected that she would immediately, upon regaining her sovereignty, begin fishing across the Pacific. We had thought at first that we might try to get a clause in the Japanese Peace Treaty to cover fisheries, but on discussion with the United States—and our own Minister discussed it very fully with Mr. Dulles—it was found impossible. Every nation bordering the Pacific had its own ideas as to what fisheries restrictions should be imposed on Japan in the Peace Treaty. And to have tried to include such a clause in the Peace Treaty would almost have turned the Peace Treaty into a fisheries treaty; there were so many conflicting views. Every country on the Pacific basin—Australia, Indonesia, Korea, China, Hawaii, Latin America—realized that Japan did or might fish off their shores; and each of them had its own ideas as to how she should be circumscribed.

Therefore in the Peace Treaty there was inserted only one clause, which stated that Japan would enter, as soon as possible, into conservation agreements with other countries. She made that undertaking. The United States, through an exchange between Mr. Dulles and the Japanese premier, Mr. Yoshida, made an agreement in February, 1951, under which Japan undertook to enter into a conservation agreement on fishing, and under which she would meanwhile abstain from fishing off our coasts. In other words, the Dulles-Yoshida agreement made a commitment with Japan even before the signing of the peace treaty, in which she would abstain from fishing off our coasts until such time as the fisheries convention was signed.

Perhaps a new fisheries convention in the North Pacific might have included other nations, but the times, however, were not quite propitious for the broad



entry of many countries. And it was felt, moreover, that Japan was the country most likely to begin fishing on our side of the ocean. It was felt, furthermore, that Japan would, if she accepted this principle, provide an important precedent which we could use if any other nation might consider crossing the Pacific to fish our main species.

That meant that the kind of convention we would make with Japan, had to be a convention that would be acceptable to her, because whatever kind of agreement she made with Canada and the United States, she knew that she might have to make similar ones with Russia, China, Korea, Indonesia, and Australia. So every clause in this treaty was considered by the Japanese in terms of its possible Asiatic application.

In a nation like Japan there is a necessity for emphasizing the concept of the freedom of the high seas. It would not have been possible to make an agreement with Japan simply in the terms of saying: You stay off our coast, and we will stay off yours. That might have been forced on her by the Peace Treaty as a punitive measure, but as a free nation, she would not consent to any such agreement because, if she agreed to stay off the coast of Canada and the United States, then Russia and other countries would all have insisted on the same kind of treaty. She would then have had no seas left to fish.

In other words, there is no point in anyone saying we should have made a treaty with Japan in which she agreed to stay off our coast and in which we agreed to stay off hers. She simply would not agree to make that kind of treaty. So it had to be something different from that, to be accepted by a free country with sovereign rights. For the purposes of this treaty she was given, by the Supreme Commander, ad hoc sovereign equality with the United States to make this fisheries treaty before she had her full sovereignty restored. So this was the first treaty which she made as a free nation, and it was a precedent for any other fishery treaty that would be made. Therefore, in our getting a treaty with Japan, we had to find a set of principles that she would accept and that would give us the protection we wanted for our main species: A set of principles that could not be used against us at some other time, perhaps in the Atlantic or off some other shore.

As John Donne said: "Never propose to thyself such a God as thou art not bound to imitate." So neither we nor the United States could propose policies for the North Pacific that we were not willing to have enforced against us in the China seas or the South seas or anywhere else. Principles had to be found to satisfy these conditions. The principles came out of the conservation programs we already had with the United States, and the heart of this treaty is in article IV where the principles are set out. Article III is the machinery for carrying through the principles.

Those two articles are the whole heart of the matter with article IV setting out the principles. We felt that the kind of principles that could be sold to any country were these: That where one (or more) nations has conserved fisheries, then it could rightfully ask others to abstain from fishing that resource—even if that resource is on the high seas. That was the broad first principle. It had to be made a little more specific and it is stated in three parts. Where a fishery is under detailed scientific investigation, where it is regulated—that is by one or more countries—and where it is fully utilized, then when those conditions apply together, the countries which have carried those things through, may ask other nations to abstain.

There are not a great many fisheries in the world meeting those principles. Now, the reason for the three conditions are obvious. We think before any nation can be asked to abstain from a fishery that that fishery should be under close scientific investigation, that it should have been studied by the biologists, and that the country or countries should have taken steps for maintaining the yield of that fishery, by regulation.

You know what we mean by the regulation of fisheries. There are several steps you can take. You may impose closed seasons on your fishing; you may close it for the week-end as you do on the salmon runs; or you may close it for several months. You can also regulate the gear that is used. You may say that the maximum size of nets will be four inches or two inches or three inches—to allow for the escapement of young fish. You can take steps to protect the immatures or the females—as you do with lobsters. You may impose size limits and say that no fish under certain size can be taken. You may impose a quota as we do with halibut and say that 55 million pounds will be taken and then the fishery will be closed. That is what we mean by regulation.

The third principle is that the fishery is already utilized, that it is being fully fished, and that there is no more fish available for some third or fourth power; that the country (or countries) using that fishery even on the high seas is using it fully. No one can then say: You are managing it but you are not fully using it, and we, as hungry people, should have those proteins.

Those are the three principles set out, as I say, under article IV. They are 1, 2, 3, on page 12.

Now, there are exceptions to those principles also shown on page 12. They set out cases where a country cannot be asked to abstain.

The first exception there refers to the historic fishing interests of some countries. If a country has had an historic interest in a given fishery, no recommendation should be made to it to waive its right to fish that stock. It says:

Any stock of fish which at any time during the 25 years next preceding the entry into force of this convention has been under substantial exploitation by that party having regard to the conditions . . .

That is to meet the case where a country has had an historic interest.

The second exception has to do with stocks of fish that are fished in greater part by countries other than the parties to the convention.

The third exception here is the most important one from the point of view of Canada. In other respects the treaty leaves many situations unchanged. This treaty does not refer to questions of territorial waters. A specific clause was inserted early stating that nothing in this convention shall be deemed to affect adversely the claims of any contracting party in regard to the limits of territorial waters or to the jurisdiction of a coastal state over fisheries. As far as such questions go, they are well affected by this treaty.

Canada had to insist on proviso No. 3 of article IV. There are older nations whose fishermen have roamed the seas farther than we have and who have established historic fishing rights off our coasts. On the Pacific, for example, we are surrounded by the United States—the state of Washington on the one side and Alaska on the other. The main salmon runs to our rivers, touch American waters. The Americans have traditionally fished off our coasts—off the west coast of Vancouver Island, in Hecate strait, and off Queen Charlotte islands. Under proviso 1 the Americans can never be asked to abstain from fishing in resources off the Canadian coast because they have fished there historically. We, however, have very few historic fishing rights off the coast of the United States. We have had halibut vessels going to the Aleutians and we have had pilchard vessels going down to Washington but, actually, we have fished very little off the territorial waters of the United States.

We had to recognize that if these principles of exclusion were able to exclude Japan from certain fisheries off the American coast they might also be used to exclude Canadian fishermen if at some date our fishermen wished to fish species moving into the Alaskan territorial waters or our own. We had

to try to ensure that the treaty would not exclude us, because after all these fisheries from the Alaska border right down off our coasts and off the United States coast are almost one fishery.

We have conserved halibut with the Americans. We have a treaty together on sockeye salmon. We conserve herring that the American fishermen may take. The fish that come into the Skeena River are in part taken by Americans. The fish going into Puget Sound streams are in turn taken partly by Canadians. Sockeye, pinks, chum, cohoes and those species are out mingling around—an intermingling fishery. Our operations are intermingled and we fish together. We use the same kind of gear, the same kind of people, and have the same standards of living. Both Canadian and American fishermen are alike in methods of fishing and standards of living. It is a single fishery.

There are other things we and the U.S.A. do together, gentlemen. On all our scientific work there is joint discussion with the United States without benefit of protocol. It simply goes on between the scientists. When we are opening and closing seasons on the coasts our chief supervisor works with the American supervisor in Alaska and the state of Washington on the same rules and principles. We manage the fisheries, even those on which we have no agreements—like pinks. We manage them together. We have reciprocal port privileges. We allow Americans to land fish under bond at Prince Rupert, pass them through to the United States. The Americans have established a historic right to fish off our coast. We have not yet established historic rights on a good part of theirs, and we had to insist on proviso number 3 so there would be no possibility of any question ever arising as to the exclusion of Canadian fishermen from the runs of salmon or other species into American waters. It is set out here as a kind of principle. No abstention can be recommended with regard to: "Waters in which there is historic intermingling of fishing operations of the parties concerned, intermingling or the stocks of fish exploited by these operations, and a long established history of joint conservation and regulation among the parties concerned so that there is consequent impracticability of segregating the operations and administering control." In such cases no one can be asked to waive right. The next clause makes it completely specific. "It is recognized that the conditions specified in subdivision (3) of this proviso apply to Canada and the United States of America in the waters of the Pacific coasts of the United States of America and Canada from and including the waters of the Gulf of Alaska southward and, therefore, no recommendation shall be made for abstention by either the United States of America or Canada in such waters."

Now, gentlemen, what this convention is doing is setting up what may amount to a new principle in international law—a principle under which countries can be asked to abstain from fishing. We are willing to have these principles applied against us wherever they can rightfully be shown to apply; but in this treaty this proviso means that from the Gulf of Alaska—that is from the Aleutian Islands southward, no matter what conservation is undertaken, no matter what species are considered—pilchards, ground fish or what have you—Canada can never be asked to abstain from fishing in any part of that area.

As I say, that is the important proviso in the Canadian terms. In the annex to this convention, there is one part of the Pacific in which we did agree to abstain from fishing, and that is an area inside the Behring Sea; it might make it a little easier for the group if I hold up this map to illustrate it for you. The members might see that here is the area in which there is abstention, as far as Canada is concerned. Now, inside the Behring Sea, east of 175° West longitude is the area in which Canada as well as Japan have agreed to abstain from fishing salmon; that is, the stock of salmon going into Bristol Bay in Alaska. The abstention refers to salmon only. A Canadian

fisherman can go in there and fish any other species that he pleases. If he wants to go all that distance to fish salmon—which he has never done—he only has to cross the 175° line, and he can still fish salmon to the westward.

Now I would like to say a word about the drawing of that line. Japan has, of course, agreed to abstain from fishing salmon, halibut and herring throughout the whole of the Eastern Pacific area. And we have agreed to abstain from fishing salmon in that one spot in the Behring Sea. But Canadians have never gone so far for salmon. They have never even fished salmon in any quantity along the Alaskan coast. In this Behring Sea area, the problem was essentially one between the United States and Japan; there is apparently some intermingling of the salmon races going to Alaska, and those going to Kamchatka. The salmon intermingle somewhere around there, I mean the two races, the Alaskan race, and the Asiatic race. The Japanese who fished salmon on the high seas very effectively have wanted to catch the Asiatic run, and probably some of the Alaskan run, if they could. The United States wanted to make sure that the Japanese would take none of the Alaskan run. Now just where the population mingle, or where they divide themselves up is not too well known. The Americans have not fished there. They have always waited until the salmon came into Bristol Bay. But somewhere off there in the Sea there is an area where the two races probably intermingle, but nobody is too clear as to where it is. The Japanese wanted to draw the line close to the American side, while the Americans wanted it to be close to the Asiatic side. Therefore, 175° West longitude was a compromise. We suggested another compromise in the nature of a corridor down the middle, with nobody fishing in the corridor, and each fishing outside the corridor. But a line was drawn, and that line is only a provisional line.

The commission set up under this body is requested in the Protocol to investigate that part of the salmon fishery; First, to investigate the intermingling of species and to determine the best way of dividing up that area. Now, if the commission finds that there is an intermingling of the Bristol Bay salmon stocks with other salmon stocks, and if they find there is an intermingling of the stocks in this area from which we have abstained with other areas of Alaska, then Canada can no longer be asked to abstain from fishing even in Bristol Bay, under this proviso.

Now, in the treaty itself, the Japanese accepted the fact that salmon, halibut, and herring met the three principles; that is, they are under scientific investigation, under regulation, and under full utilization; and Japan agreed that they would abstain from fishing these stocks immediately. These stocks are placed in the annex to this document for five years, when there will be a review of the situation. At the end of five years of the commission that is set up here will review these three stocks and will judge if Canada and the United States still have them under scientific study, regulation and conservation; as well as full utilization. And if we and the United States still have them under the 3 principles, then Japan will continue to abstain from fishing salmon, halibut, and herring; and I take it that we are pretty sure to have them still under utilization, scientific investigation, and regulation at the end of five years. So it looks as if we can be pretty sure that the Japanese will abstain with respect to these three main stocks for the duration of the treaty, which is 10 years.

Now, that is a fairly important conclusion. On our west coast I think it is true to say that the main fears of the fishing industry for 20 years have been of Japanese fishing from across the sea and the fear that they would fish salmon, halibut and herring. These three species form the back-bone of the British Columbia fishing industry. Perhaps they make up 85 per cent of all our production and value. The treaty, therefore, if it goes through, gives to the British Columbia industry protection on these three species for

5 years certain, and for 10 years, and thereafter if the treaty continues in effect, so long as we continue to conserve them; and it gives them protection from the Japanese. That is an important step.

It may be that some other country will come in and fish during that period, but if so, the parties to this convention will have to meet with that country and try to get her to agree to similar regulations and similar terms. We have a precedent established, a step has been taken in a new direction, and a gain has been made.

Now the convention is set up so that we start out with three main species protected in that way; but any other species of fish in our North Pacific may be brought within the terms of this agreement, whenever it meets these conditions; that is, for example, if we alone, or we and the United States could indicate, for example, that pilchards met these three conditions,—under scientific research, fully regulated, and fully utilized,—we could have pilchards brought into the picture and ask the Japanese to abstain; or, if our own flat-fish industry comes under regulation, it could be brought within the principles. I know that many fishermen would have liked to see other species of fish on our coast brought within these terms and the Japanese excluded; but in the case of flat fish, for example, they do not yet fulfil all these three conditions. We have some scientific investigation on them but there is practically no regulation yet, because they have not needed it, and there is no suggestion that they are under full utilization yet. There are some species, therefore, that may be brought within the treaty when they meet the conditions. But so long as they are not brought within the treaty, the Japanese are free to fish them. In other words, the Japanese are not excluded by this treaty from the high seas, on our side of the Pacific. They could come across the ocean to fish any species not covered here; they could come across to fish flat fish, for example. There may be some question as to whether or not that would be economical.

The other articles included here are to try to give us maximum protection, shall we say, if the Japanese were fishing here, such as the right of boarding her vessels, to see that only flat fish were being taken and none of the species which are excluded under the treaty; the right of boarding and patrol. So we did not in the treaty gain 100 per cent exclusion. But the Japanese have never fished our coast and it is doubtful if they would come to fish for species which are as limited as those other varieties are, and we have, as I say, protection for the back-bone of our fishing industry.

In the Behring Sea crabs will be fished by the Japanese, and by the Americans. Under the treaty they may ask for conservation of crabs. If Japan and the United States conserve crabs in the Behring Sea, if they regulate it and efficiently utilize it, there will come a day when the Canadian fishing industry would be asked to abstain from fishing crabs in the Behring Sea; and that day may come; but meanwhile, if our industry wishes, it can develop all those resources, and enter the crab fishery.

Now, Mr. Chairman, there are not a great many other things to say and if the committee can bear with me for another 10 or 15 minutes, I think that would complete it.

The CHAIRMAN: I think so, Mr. Bates.

The WITNESS: That is the important part with reference to this treaty.

The other part is covered in article 3 where the commission is set up. This commission has two functions; on the one side it is a kind of judicial body set up to determine what species of fish meet these principles; whether they continue to meet them, or whether new species can be brought in. There is one vote for each country. We can select, up to 4 commissioners each, as we please, but there is just one vote for each country.

The second function of the commission is research to handle any species that are not already covered by treaties. We already have a commission on halibut, and sockeye salmon with the United States; but this new proposed commission is a body for dealing with conservation of any species in the North Pacific between two or three of the parties. Supposing we and the United States wish to do some special conservation work together on pink salmon; we can under this commission, without Japan being interested, proceed under this Convention without setting up a new body for this specific purpose. So instead of having to come to the House of Commons for some new convention on each species, this commission is wide enough in its terms to include any particular new species that may require conservation. Of course, we would still have to come to parliament for money to extend such operations. But the machinery is set up for an investigational commission much the same as the Northwest Atlantic Commission (which is an investigational body covering all species, and bringing in all parties). This commission would be in part a research commission, with the power to make recommendations to the government for regulations, just as the Halibut Commission has the power to recommend broad regulations necessary for the restoration and maintenance of that stock.

The preamble sets forth the general principles of freedom on the high seas, and the main purposes of the document. Article 1 subsection (1) defines the area, which is really the whole of the North Pacific ocean, that is, from the equator northward.

Article 1, subsection (2), is the clause I have referred to already which says:

Nothing in this convention shall be deemed to affect adversely (prejudice) the claims of any contracting party in regard to the limits of territorial waters or to the jurisdiction of a coastal state over fisheries.

Article 1, subsection (3), is simply a definition of "fishing vessel".

Article 2 sets up the commission named in clause 1.

Article 2, subsection (2), says that there shall be 3 national sections.

Article 2, clause (3), says:

Each national section shall have one vote. All resolutions, recommendations and other decisions of the commission shall be made only by a unanimous vote of the three national sections except when under the provisions of article 3, section 1 (c) (ii) only two participate.

That would be, for example, two participating in an investigational program in some species.

Article 2, clause (4), reads:

The commission may decide upon and amend, as occasion may require, by-laws or rules for the conduct of its meetings.

Article 2, subsection (5), reads:

The commission shall meet at least once each year and at such other times as may be requested by a majority of the national sections. The date and place of the first meeting shall be determined by agreement between the contracting parties.

Now, turning to page 8, article 2, clause (6), says:

At its first meeting the commission shall select a chairman, vice-chairman and secretary from different national sections. The chairman, vice-chairman and secretary shall hold office for a period of one year. During succeeding years selection of a chairman, vice-chairman and

secretary from the national sections shall be made in such a manner as will provide each contracting party in turn with representation in those offices.

Those officers are to rotate so that each one may have a chance at the various offices, such as the chairmanship, and so on.

Article 2, clause (7), says:

The commission shall decide on a convenient place for the establishment of the commission's headquarters.

Article 2, subsection (8), says:

Each contracting party may establish an advisory committee for its national section, to be composed of persons who shall be well informed concerning North Pacific fishery problems of common concern. Each such advisory committee shall be invited to attend all sessions of the commission except those which the commission decides to be *in camera*.

They can attend almost all the meetings, unless the commission decides that some meetings have to be *in camera*.

Article 2, clause (9), says:

The commission may hold public hearings. Each national section may also hold public hearings within its own country.

Article 2, clause (10), says:

The official language of the commission shall be Japanese and English. Proposals and data may be submitted to the commission in either language.

(At this point the discussion continued off the record.)

Article 2, clause (11), says:

Each contracting party shall determine and pay the expenses incurred by its national section. Joint expenses incurred by the commission shall be paid by the commission through contributions made by the contracting parties in the form and proportion recommended by the commission and approved by the contracting parties.

That is the same as the Northwest Atlantic convention.

Article 2, clause (12), says:

An annual budget of joint expenses shall be recommended by the commission and submitted to the contracting parties for approval.

Article 2, clause (13), says:

The commission shall authorize the disbursement of funds for the joint expenses of the commission and may employ personnel and acquire facilities necessary for the performance of its functions.

Article 3, clause (1), paragraph (a) says:

In regard to any stock of fish specified in the Annex, study for the purpose of determining annually whether such stock continues to qualify for abstention under the provisions of article 4. If the commission determines that such stock no longer meets the conditions of article 4, the commission shall recommend that it be removed from the Annex. Provided, however, that with respect to the stocks of fish originally specified in the Annex, no determination or recommendation as to whether such stock continues to qualify for abstention shall be made for 5 years after the entry into force of this convention.

Article 3, clause (1), paragraph (b) says:

To permit later additions to the Annex, study, on request of a contracting party, any stock of fish of the convention area, the greater part of which is harvested by one or more of the contracting parties, for the purpose of determining whether such stock qualifies from abstention under the provisions of Article 4. If the commission decides that the particular stock fulfils the conditions of article 4 it shall recommend, (1) that such stock be added to the Annex, (2) that the appropriate party or parties abstain from fishing such stock and (3) that the party or parties participating in the fishing of such stock continue to carry out necessary conservation measures.

Article 3, clause (1), paragraph (c) says:

In regard to any stock of fish in the convention area: (i) study, on request of any contracting party concerned, any stock of fish which is under substantial exploitation by two or more of the contracting parties, and which is not covered by a conservation agreement between such parties existing at the time of the conclusion of this convention, for the purpose of determining need for joint conservation measures.

Then, with regard to the next item: this gives the commission the power to recommend penalties for violation of the convention.

Then we have the usual statistical clause, to which you have made reference, and this article also provides for the making of studies and an annual report to the commission.

Article 3, paragraph 2 provides the commission with the power of review of all the operations under the treaty.

Article 3, paragraph 3 instructs the commission, in so far as feasible, to utilize the technical and scientific services of, and information from, official agencies of the contracting parties; that is, so far as possible our own Research Board will be used. We are endeavouring to set up not a new international body, but a body that will use the existing facilities of the various countries. Incidentally, without using any of this treaty, we are doing this very thing at the moment under clause 3.

Article 4; I suppose I do not need to go over again.

Article 5 refers to the annexes, and brings the Annex under the treaty; that, also, I think is perfectly clear and has already been dealt with.

Article 6 refers to the case of a country which is not a member or a party to this treaty whose nationals have been found fishing in the convention area, and the operation of whose vessels might adversely affect the work of the commission. The article reads: "In the event that it shall come to the attention of any of the contracting parties that the nationals or fishing vessels of any country which is not a party to this convention appear to affect adversely the operations of the commission or the carrying out of the objectives of this convention, such a party shall call the matter to the attention of the other contracting parties. All the contracting parties agree upon the request of such party to confer upon the steps to be taken towards obviating such adverse effects or relieving any contracting party from such adverse effects."

Article 7, refers simply to amendments to the Annex.

Article 8, refers to records of operations.

Article 9, fixes the provisions whereby each party agrees to compel their nationals to refrain from fishing certain species.

Paragraph 2 of that article 9 gives the powers to enact and enforce necessary laws and regulations and provides proper penalties for violations thereof, and provides for the reporting to the commission of any action taken by each party with regard thereto.



Article 10 makes provision for carrying out the terms of the convention. The first clause agrees to boarding vessels in this area, particularly Japanese vessels which are fishing in this area. This is the clause which allows you to board and inspect their equipment, log book and other articles and to question persons. This is the same type of boarding and police action as it used in the other treaties.

Article 10 (2) covers reports which the various contracting parties have to make to the commission on the action they have taken and on the penalties they have enforced. Section 3 of this article requires the three parties to meet at the end of six years to review the enforcement of the provision in this article and to see if further improvements may be necessary for carrying out its provisions, expanding as may be necessary the powers this clause is intended to provide. At the end of that period the whole matter of enforcement may be reviewed.

Article 11 refers to the exchange of instruments of ratification.

The Annex, paragraph 1, covers the species which Japan agrees to abstain from fishing in certain areas, Canada and the United States agree to continue to carry out the necessary conservation measures on these species.

Paragraph 2 of the Annex refers to what I showed you on the map in regard to Behring Sea stocks where Japan and Canada agreed to abstain from fishing salmon.

The protocol at the end makes provision for the commission investigation of the provisional line drawn in the Behring Sea.

Thank you, gentlemen.

*By Mr. Applewhaite:*

Q. Mr. Chairman, if I might be permitted to do so I have one or two questions I would like to ask and I would like to have the answers on the record the same day as this statement. But before I do so, I am quite confident I am expressing the thoughts of every member of this committee if I just say that I am sure that we have all appreciated the very full and very interesting outline of this document which the deputy minister has given us—

Hon. MEMBERS: Hear, hear.

*By Mr. Applewhaite:*

I want to ask three questions, sir, which I hope you will feel come within our terms of reference; namely, the subject matter of this treaty, because I think it may be of importance later; but I wonder if the deputy minister could tell us in general figures what proportion of the Pacific coast fish catch is exported; would you have an idea as to that?—A. You mean, exported out of Canada to other countries?

Q. Yes, roughly; how much is marketed elsewhere than in Canada, or consumed.—A. I think it would take in, considering the consumption of fresh and frozen fish, canned fish, meal and oil, probably about 75 per cent.

Q. About 75 per cent?—A. About 75 per cent.

Q. Would you be able to say what country is the largest buyer?—A. I suppose the United States would be the largest.

Q. And would you have any idea what proportion of that 75 per cent the United States takes?—A. I think, Mr. Chairman, that we are going through a very rapid transition in the basic part of the British Columbia industry, canned salmon. For various reasons the international market is changing its direction considerably at this point of time.

Q. Yes. I think perhaps that is not a fair question at the moment.—A. Up to two thirds of the total export goes to the United States. I do not think that would be far wrong.

Q. That is fine for my purpose. Coming to the treaty. I think you did mention it, but I wonder if you could, please, explain to the committee again if there is a situation where all three countries are concerned, what likelihood there is of Canada being outvoted on an issue by the United States and Japan?—A. On matters with which we all deal?

Q. Yes.—A. I think that the likelihood would be very slight. There is much unity of purpose between Canada and the United States on the Pacific coast; so it is likely that there would be very few occasions on which we would differ. If such an occasion did arise the requirement, of course, is for a unanimous vote of all three parties before any formal decisions can be made, and if we were outvoted and stayed out, the vote would be non-operative.

Q. That is the point I wanted to make.—A. Yes.

Q. Now, also, would you make it clear whether this commission which we are proposing to set up would have the right to make orders which are operative or whether its powers are limited to making recommendations to the governments represented?—A. It has powers only to make recommendations to the government concerned. It cannot make regulations that are to be enforced on the nationals of the three countries; it only recommends to the three governments what would have to be approved before it became operative against all three nations.

Q. Now, would you care to express an opinion as to the likelihood from the economic angle of Japanese vessels coming into the waters of our coast and fishing species other than the three named in the convention and taking that back to Japan?—A. It is not a very likely eventuality, sir. It is a long haul over here to our coast, especially for a large factory ship, and it probably could make much more lucrative expeditions nearer home.

Q. Then, the other one; what would be the possibility of Japanese vessels coming over to this side fishing those species and then immediately selling their catch either in Canada or the United States without having to take it back home?—A. There is no reference to that in the treaty, Mr. Chairman.

Q. I was wondering whether it was a practical measure, whether it was economically feasible to do that.—A. I think in most of those cases that kind of question is essentially a tariff question. You probably noticed what happened a few weeks ago in the United States where certain kinds of fish were brought in from Japan; action was taken very quickly by the tariff commission. So far as Canada is concerned it is impossible, such foreign vessels being excluded from our ports by the Customs and Fisheries Protection Act.

Q. That is the answer to the question in so far as Canada is concerned?—A. Yes.

Q. Just one other question I wanted to ask, perhaps it should be deferred as it is about all the criticism we have heard against the treaty, but I wonder if you would care to comment on it, and it is this: that Canada by this treaty has sold out to the United States imperialists or the U.S. financial interests, the interests of the fisheries on the Pacific coast. Would you care to comment on that?—A. I would prefer to give a little thought to that one, Mr. Chairman, there are some obvious political angles involved.

Q. I am not pressing for an answer right now.

Mr. STUART: Mr. Chairman, could I have one word before we close? It is not a question, it is just this; that we have listened with great interest, I think, to the statement which has been made to us by Mr. Bates. It has been very educational and I think very helpful, although it does not to a great extent apply to the Atlantic coast, which I represent. But I would like to make this suggestion before we adjourn, and that is as to whether or not copies of that statement might be made available to the members of this committee, additional copies;

because I know that in my own riding many people would be very interested in reading that statement; and I would move that additional copies of the statement be made and that they be made available to members of the committee.

The CHAIRMAN: I think that is a good suggestion, Mr. Stuart, but provision has already been made to print up to 1,000 copies in English.

On your behalf, gentlemen, I would like to extend to Mr. Bates the thanks of the committee, as already mentioned by Mr. Applewhaite and Mr. Stuart, for the thoughtful consideration and most interesting statement given to us today by the deputy minister.

It occurred to me that possibly the members would like to have another meeting this week at which time further questions could be put to Mr. Bates.

Mr. STUART: Yes.

The CHAIRMAN: I understand that Mr. Bates will be available any day this week, and if it is agreeable to the committee I would suggest that we meet again on Thursday at 11 o'clock in order that that might be done.

In the meantime I would like to say that we have with us Mr. C. G. O'Brien, manager of the Fisheries Council of Canada in Ottawa, and he would like to address the committee for a few moments. I understand he represents organizations from Prince Rupert to Newfoundland. If it is satisfactory I would like to ask Mr. O'Brien to address the committee.

Mr. GILLIS: Might I ask Mr. Bates one question before we hear Mr. O'Brien? What we are setting up is not an enforcement commission, it has no power to change any process laid down by this convention. As I listened I got the impression that this commission was the body that was going to make decisions or make any changes in the regulations, but from what we have heard today it would appear that it is merely a commission to police the regulations, not a committee or commission of enforcement?

The WITNESS: That is right, sir. The principles are set up there and they are all inclusive; and it is the commission's job to consider the problems that arise and to see how the principles apply.

The CHAIRMAN: Mr. O'Brien:

**Mr. C. G. O'Brien, Manager, Fisheries Council of Canada, Ottawa, called:**

The WITNESS: Mr. Chairman and gentlemen, I do appreciate this opportunity of reading you this brief statement. I can be through by 1 o'clock. The Fisheries Council of Canada is a national association having a membership of 15 organizations. I have the names of the organizations here which I would be glad to leave with the committee but I will not take the time to read them now. They are:

Prince Rupert Wholesale Fish Dealers Association, Prince Rupert, B.C.

Fisheries Association of B.C., Vancouver, B.C.

Vancouver Wholesale Fish Dealers Association, Vancouver, B.C.

Prairie Fisheries Federation, Winnipeg, Man.

Ontario Wholesale Fish Merchants' Association, Toronto, Ont.

Ontario Federation of Commercial Fishermen, Port Dover, Ont.

Montreal Fish Merchants Association, Montreal, Que.

Quebec & Northern New Brunswick Fish Producers & Exporters Association, Quebec, P.Q.

Quebec United Fishermen, Montreal, Que.

New Brunswick Fish Packers Association, Moncton, N.B.

Canadian Atlantic Salt Fish Exporters Association, Halifax, N.S.

Fish Packers' Association of the Maritime Provinces, Halifax, N.S.

Atlantic Fisheries By-Products Association, Toronto, Ont.  
Prince Edward Island Fisheries Federation, Charlottetown, P.E.I.  
Newfoundland Fish Trades Association, St. John's, Newfoundland.

I may say on their behalf, Mr. Chairman, that we are interested in the improvement of fisheries throughout Canada. It is a matter of national interest and we are in favour of anything which is to the advantage of the national interest. As Mr. Bates pointed out in his talk this morning new ground has been broken in the framing of this treaty, a new treaty is involved. I may say that the treaty has been the cause of some concern, but we are now of the opinion that the type of that agreement will work out to the advantage of all concerned. I have been asked to submit to your committee a resolution which was adopted at the seventh annual meeting of the Fisheries Council of Canada, held on April 30, 1952, at Vancouver, B.C. The resolution reads as follows:

Whereas at the 1951 annual meeting of the Fisheries Council of Canada a resolution was adopted requesting the government of Canada, concurrent with Japanese peace treaty negotiations, to enter into a convention which would provide adequate protection to Canada's west coast fishery, and

Whereas in the intervening period, such convention has been completed and now requires only the ratification of the Canadian government, and,

Whereas the particular instrument of convention is known as the Tripartite Agreement of the North Pacific, including Canada, the United States and Japan,

Therefore be it resolved. That the Fisheries Council of Canada endorses the content of the said Tripartite Agreement without qualification and recommends its ratification by parliament.

Thank you, gentlemen.

The CHAIRMAN: Thank you very much, Mr. O'Brien, for the resolution you have just read; we are very pleased to have it.

(Discussion as to procedure followed.)

The committee adjourned.

## EVIDENCE

MAY 8, 1952.

11.00 a.m.

The CHAIRMAN: The meeting will please come to order, we have a quorum. I wish to thank you for your prompt attendance here this morning, gentlemen. I know it is quite a task when so many other committees are meeting these days to have a full committee meeting and hope we will be able to maintain our quorum and finish the questioning this morning of Mr. Bates who is here with us and then we will adjourn until May 27.

I would like to notify the members that letters have been sent to the interested organizations wishing to make representations and if the committee is desirous, copies of the letters and the list of organizations to whom the letters were sent will be placed in members' mail boxes today.

Mr. GIBSON: Could it be incorporated in the record of the committee, Mr. Chairman? I wonder if that would probably give us a better record.

The CHAIRMAN: Well, perhaps you would give us that in the form of a motion.

Mr. GIBSON: I move that the letter sent by the clerk under date of May 7, 1952, including the list of organizations to whom the letter was addressed be incorporated in this evidence.

Carried.

OTTAWA, May 7, 1952.

Gentlemen:

The Standing Committee on Marine and Fisheries has instructed me to inform you that it is prepared to receive written briefs and to hear oral representations from organizations interested in the proposed Tripartite Fisheries Agreement between Canada, Japan and the United States of America.

In order to permit your organization to prepare representations and, if desirable, to make arrangements for your representative to come here, the Committee intends to adjourn until Tuesday, May 27, 1952. On that date, the Committee plans to resume its deliberations and to commence consideration of written briefs and oral representations. It was felt by the Committee that all representatives be heard on that day if possible and, in any event, within two or three days thereafter.

If it is the intention of your organization to submit a written brief to the Committee, it would very much facilitate the progress of the Committee's work should you be able to forward 50 copies as soon as possible before May 27. Whether or not your organization plans to submit a written brief, please indicate in a reply before May 27 who your representative or representatives will be, if any.

Expenses incurred as a result of these representations must be borne by your organization.

Your organization has been placed on the Committee's mailing list for a copy of its Minutes of Proceedings and Evidence which will be sent to you as soon as received from the Queen's Printer.

Yours very truly,

A. Small,

Clerk of the Committee.

LIST OF ORGANIZATIONS TO WHOM LETTERS WERE SENT RE  
REPRESENTATIONS TO THE STANDING COMMITTEE ON MARINE  
AND FISHERIES CONCERNING THE PROPOSED TRIPARTITE  
FISHERIES AGREEMENT

1. United Fishermen & Allied Workers' Union,  
138 East Cordova Street,  
Vancouver, B.C.
2. Fishermen's Co-operative Association,  
2195 Commissioner Street,  
Vancouver, B.C.
3. Deep Sea Fishermen's Union No. 80 of British Columbia,  
Box 249,  
Prince Rupert, B.C.
4. Canadian Fishing Vessel Owners' Association,  
c/o Nelson Brothers Limited,  
325 Howe Street,  
Vancouver, B.C.
5. Fisheries Association of British Columbia,  
119 West Pender Street,  
Vancouver, B.C.
6. Vancouver Wholesale Fish Dealers' Association,  
c/o Edmunds and Walker, Limited,  
Foot of Campbell Avenue,  
Vancouver, B.C.
7. Prince Rupert Wholesale Fish Dealers' Association,  
Box 9,  
Prince Rupert, B.C.
8. Prince Rupert Fishermen's Co-operative Association,  
Prince Rupert, B.C.
9. Native Brotherhood of British Columbia,  
193 East Hastings Street,  
Vancouver, B.C.
10. Fisheries Council of Canada,  
46 Elgin Street,  
Ottawa, Ont.

Mr. PEARKES: I move the number of copies of the minutes of this meeting be increased from 1,000 to 2,000.

The CHAIRMAN: Of this committee?

Mr. PEARKES: Yes, in English. And I also move that 500 be printed in French. I do not think you should eliminate the French.

The CHAIRMAN: That is of the evidence of the committee at this particular meeting?

Mr. PEARKES: No, the evidence given before this committee.

Mr. GIBSON: Is 500 not too much? Four to one, I think, is a little better proportion. Couldn't we have 200?

Mr. MOTT: We already have authority to print 250 in French.

Mr. APPLEWHAITE: I think all the interest will be on the western side.

Mr. GILLIS: I do not agree with that. It is a parochial attitude. I think Mr. Bates in this convention is laying the future of the fishing industry from coast to coast, and I think that this information would perhaps be more valuable to the Atlantic end of the industry than it is to British Columbia. You are actually doing something, you are actually putting the mechanics on paper so that people can look at it and see what it is. This will be extended; there is no doubt about that. I am just as much interested as Mr. Applewhaite is

Mr. PEARKE: There is one thing about this present agreement—it will be a pattern for future agreements.

The CHAIRMAN: Is the Committee ready for the question?

Mr. APPLEWHAITE: The question then is 1,000 and 250 additional?

Mr. PEARKE: Yes, making a total of 2,000 in English and 500 in French.

The CHAIRMAN: That is an additional 250 in French?

Mr. PEARKE: Yes.

Carried.

The CHAIRMAN: Is there any further discussion before we call Mr. Bates, Deputy Minister, Department of Fisheries, for questioning?

We were glad to have the very full and explanatory statement given to the committee on Thursday morning by Mr. Bates. I notice some of the members are here now who were not at that former committee meeting. I notice Mr. Herridge, who was appointed in place of Mr. MacInnis. We are very sorry that his health prevents him from attending this committee. Mr. Bates is now here, gentlemen, and will receive your questions.

**Mr. Stewart Bates, Deputy Minister, Department of Fisheries, called:**

Mr. PEARKE: Mr. Chairman, may I make one or two observations and ask a few questions? Before doing so I would like to express my appreciation and admiration for the way in which the deputy minister presented the background of these agreements and stressed the importance of them. I do so heartily concur in expressing the opinion that this will be a pattern for future agreements and it is for that reason I feel that we should have the fullest possible investigation into this agreement, not in the form of harping criticism or anything like that—because I do not intend to enter into that field—but a question was asked by a member at our first meeting as to what were the objections to this treaty. I think we should have an examination and presentation of the viewpoint which is taken by certain groups who do not quite see eye to eye with the agreement as drawn up, and whose objections are raised from fear: fear in the first place that their livelihood will be interfered with and fear that there may become over-fishing of certain species on the Pacific coast; fear that new inventions will be introduced which will alter the nature of the fishing as practised in the past years, to which Mr. Bates referred; fear that there is not adequate protection in this treaty to provide for the future.

Now, those are the fears and it is upon those fears that objections have been raised. If we present those fears here no doubt they can be examined and further opportunity will be given later on for examination and presentation when perhaps some of the unions send their representatives here.

Regarding the fear of over-fishing, I would like to say this: There is a fear that all the effort which has been put into conservation by the government of Canada, by the industry and with the co-operation of the fishermen, may be lost because while Canada has been concentrating on conservation,

it is known that the Japanese have, for obvious reasons, been concentrating on the method of locating fish and of catching fish as opposed to conservation, and I am informed—I think on thoroughly reliable authority—that the processes of locating fish and of catching fish in practice by the Japanese are, or certainly have been until very recently, ahead of Canadian methods in practice.

In support of that, one hears the common statement that the Japanese are “good fishermen”. Actually, they are good fishermen because they have concentrated on methods of locating and catching fish. Mr. Bates in his presentation the other day indicated that there were many new methods now of catching fish and it may be that Canada is catching up, but in the past the situation I have just described existed.

There was common rumour on the Pacific coast before the war that the Japanese knew more about our waters than the Canadian fishermen did, or than Canada did, and it was rumoured that Japanese naval officers were exploring our waters for offensive purposes. I think that the evidence which has been produced more recently has indicated that they were exploring the oceanographic conditions of our coast for the purpose of locating and catching fish more than for military purposes.

Regarding new equipment, reference was made—and I won't touch on that—to types of fishing gear, but there are new types of vessels, the freezer vessel which has been widely advertised in the American fishing journals. This new type of freezer vessel contains a refrigeration system which by a brine solution will enable salmon to be kept in a state of freshness when caught even in remote parts until they can be brought down to the canneries. These ships have a refrigeration plant which will enable them to take some 700 to 800 tons of salmon and they are serviced by a small fleet of gill-netters. I understand that there are some ten such vessels actually in operation. A complete description was given of these vessels in the July issue of the *Pacific Fisherman*, which is a monthly magazine published in the United States, if anybody is interested in seeing types.

Then, of course, there are the large deep sea otter trawlers of the British type, which also have refrigeration, carry filleting crews and reduction plants on board, and it is that type of new vessel for which there are fears expressed. I think I am correct in saying—and I would like to ask the deputy minister a question—that very few, if any, Japanese vessels actually fished off the British Columbia coast in pre-war days? I know there were many Japanese fishermen sailing in Canadian registered boats but I am under the impression—although it is contrary to general opinion—that there were very few Japanese vessels, vessels of Japanese registration, coming across the Pacific ocean which fished off the Canadian coast.

*By Mr. Pearkes:*

Q. I wonder if that could be answered now?—A. I think the hon. member for Nanaimo is correct in that. Before the war we had no evidence of Japanese registered vessels fishing anywhere near the British Columbia coast.

*By Mr. Applewhaite:*

Q. Not at all?—A. Not at all.

MR. PEARKE: Because of that there is the feeling that now the Japanese with this newer type of vessel will be able to come over with Japanese vessels and perhaps take the catch of fish—I am not talking of any particular species—the catch of fish to markets much further afield, and I think it should be recognized now that this agreement permits Japanese vessels to come into our waters—an entirely new condition and one which is not generally known.



There has always been talk of Japanese fishermen on the Pacific coast but I think comparatively few people realize that those were Japanese sailing in Canadian registered vessels.

So, in this treaty, there does not appear to be any provision which would stop what could be termed a "floating cannery" coming from Japan and interfering with our fish.

Now, to deal with the various articles and to perhaps ask questions on each article, if I may, article No. 1—

Mr. MACNAUGHT: May I interrupt a moment? You have reached the point where you are going to ask questions?

Mr. PEARKES: Yes.

Mr. MACNAUGHT: I wonder if you would permit an interruption for one moment?

Mr. PEARKES: Yes, certainly.

Mr. MACNAUGHT: At the close of our last meeting, Mr. Applewhaite asked a question which Mr. Bates at that time said he would prefer to answer after studying it for a while. I believe Mr. Bates is now prepared to answer that question. I believe if he is prepared to answer it, it should go on the record as near the original question as possible if you will permit Mr. Bates to do so?

Mr. PEARKES: Yes, certainly.

The WITNESS: We do not have, Mr. Chairman, the precise terms of Mr. Applewhaite's question raised late at the last session, do we?

Towards the close of the last meeting of the committee Mr. Applewhaite raised the following question:

"I wonder if you would care to comment on it, and it is this: That Canada by this treaty has sold out to the United States imperialists or the financial interests . . ." Would you care to comment on that?

I think, Mr. Chairman, had I been clearer on the question, I should have commented right away. So far as we are concerned the answer to that is emphatically "no". There is nothing in this convention that suggests any kind of sell-out of Canadian interests to the United States or to anyone else.

Historically, the United States have fished off the British Columbia coast in the international waters. There is nothing in this treaty that would stop them from doing so. There is nothing in this treaty that adds to their rights to fish in these territorial waters. On our side, however, the treaty does yield a major concession. The treaty is set up to limit or to restrain some of these international rights that exist, and in that proviso to the principles which I mentioned the other day, there is the clause stating that from the Gulf of Alaska southwards Canada cannot be asked to abstain from any fishing, however it is developed in the future, however it is conserved or utilized by the United States. In other words, that clause gives us, from the Gulf of Alaska southwards, the equivalent of the historical rights of fishing which we did not have. Our fishermen have not fished the greater part of that area, but that clause protects the area for them as if they had historical rights there. The United States gave us a concession in that principle and it is a big concession.

Our coastline along which the Americans fish is some 600 miles long. They have given us the same concession from Alaska to the Mexican border, an area perhaps four times or five times larger in which Canadian fishermen in the future cannot be asked to abstain from fishing. The Japanese can be asked and are being asked. Any fourth or fifth power may be asked, but not the Canadians.

With that type of concession in the treaty, from a Canadian point of view, it is difficult to see why anyone would talk of a sell-out of Canadian interests. Also the other question, namely, the limit on territorial waters: There is no

sell-out of Canadian interests there, for the document from the beginning says that it leaves all these questions of territorial waters unaffected and untouched.

This particular convention was not the place to discuss questions of territoriality. In the last resort that is probably a matter between Canada and the United States, primarily a matter in which Japan might not be interested, but there is nothing in this document to restrain discussions between us and the United States on territorial waters in the future. The question is simply left untouched. So, we have given nothing away in the matter of territorial waters. According to that, it is difficult to see why this question would have been asked, but being asked the answer I think is simple and straightforward.

*By Mr. Pearkes:*

Q. Dealing with article No. 1, which defines the convention area, may I ask whether the Hecate, strait Queen Charlotte Sound, Dixon Entrance and the strait of Juan de Fuca will be considered now as the high seas; whether vessels, both American and Japanese, will be eligible to fish in these waters. The United States vessels, of course, have established their historical right to fish in the Hecate strait. I do not suppose there is any question about that, but will Japanese vessels now be able to come into the Hecate strait and fish for those species which they are entitled to fish for?—A. The question of Hecate strait that has been raised by the hon. member is one of the undetermined questions as between Canada and the United States. Canada claimed territoriality in these waters over fifty years ago, but took no steps then to enforce that claim against U.S. fishing vessels. Article No. 1 makes it plain that this document does nothing to affect territoriality and it makes it plain that the treaty does nothing to affect our future claims to territorial waters.

Article No. 1, paragraph 2, refers to that. Nothing in the convention can adversely affect our claim to territorial waters—any claim we wish to make. So, in effect the convention leaves the question untouched. You have asked specifically if it permits the Japanese to fish in Hecate strait. I think that, should a Japanese vessel appear in the Hecate strait, it would probably lead to appropriate action by the Canadian government. We have already claimed the straits as territorial waters. We have permitted the United States to fish there but members on this committee from the Atlantic coast know that Canada accords the United States by treaty and understandings many rights that are accorded to the fishing vessels of no other country.

So, I take it that should the Japanese vessels attempt to fish there, we would take the necessary action and push our claim still harder. The Americans, however, have been fishing the area historically. It would probably involve us in some bilateral agreement with the Americans at that point of time.

I have the department's legal adviser here. I do not know if he wishes to implement or qualify that statement in any way.

Q. Would that view apply to Dixon Entrance, or that portion of Dixon Entrance which may be claimed as Canadian water south of the international boundary, Queen Charlotte Sound and Juan de Fuca strait?—A. I was using Hecate strait to refer generally to the same problem that exists in the Dixon Entrance.

Q. And the Queen Charlotte Sound which, of course, is a wider stretch of water?—A. Yes: No present or future claim to territorial waters is affected by this treaty.

The CHAIRMAN: Do you mind if I interject a few remarks here at this point?

Mr. PEARKES: No.

The CHAIRMAN: I think that it would be helpful, General, especially to those of us who come from the Atlantic provinces, if the Department of Fisheries could provide us with a few mimeographed maps showing the different areas, possibly coloured in red and blue, to which the treaty refers because some of us are not so much accustomed to these areas as General Pearkes, Mr. Applewhaite, Mr. Mott and the others who reside on the Pacific coast. It is for that reason I make this suggestion, and I would like to ask Mr. Bates whether or not, in the interval between now and May 27, the committee can be provided with these maps. They do not need to be very large but large enough to point out the different areas, which I think would be most helpful.

The WITNESS: Yes, that could be done, Mr. Chairman. We shall be happy to provide them.

The CHAIRMAN: One of the reasons is that I understand that, in the Bristol Bay area, the Japanese used to go out and fish there with the Americans; and at one time there was quite a controversy, wasn't there, in that area between the Americans and the Japanese. I am glad that the maps will be provided by the Department of Fisheries.

*By Mr. Pearkes:*

Q. No reservations were made in the treaty, were there, in the way of barring the Japanese to Hecate strait waters in the same way as they were excluded from the Bristol Bay waters by the United States?—A. Well, the situation is exactly the same. The Japanese are free to fish in Bristol Bay for any species except salmon. They are sending vessels into Bristol Bay to fish for crabs and possibly others. As to Hecate straits this is, as I said before, a question of territorial waters.

*By Mr. Gibson:*

Q. They could not fish off British Columbia for salmon, herring and halibut?—A. Yes, that is right.

*By Mr. Pearkes:*

Q. They are not excluded from Bristol Bay?—A. No, except for those species placed in the annex of the treaty.

Q. Then article 2, section 3, does that prevent Canada from designating a species in future as being under scientific protection without the unanimous vote of the three parties concerned?—A. Well, sir, in order to have any species brought within the framework, it has to meet three conditions—one, under scientific study; two, under regulation; and, three, under maximum utilization.

Q. Supposing it meets those three conditions, then does there have to be a unanimous vote to include that species in the exemption?—A. That is right, there would have to be a unanimous vote.

Q. You mean before abstention could be asked?—A. It would have to be determined whether the particular stock met the three conditions and the commission is the judicial body that determines whether or not that is so.

Q. Article 3 prescribes five years' abstention. Must any extension granted be unanimous? If there is to be an extension of the abstention and if at the end of five years, we will say, Canada wanted to extend the abstention to prevent Japan from fishing those three species which they are now prohibited from fishing for a further period. Would that have to be a unanimous agreement?—A. No, sir. I think it is the other way round. We are guaranteed the protection of these three species for five years. On the sixth, seventh and subsequent years that guarantee is automatically extended unless it is proven that the conditions no longer apply; in other words, if you had a unanimous vote of the commission that we were no longer maintaining

scientific study, full utilization and so forth, then the items would be taken out of the abstention, but automatically they will not unless it is proven that they no longer fulfil the provisions and to do that would require a unanimous vote.

Q. The question was asked by Mr. Applewhaite, I think, regarding Canada having the right to veto or the right to vote against the other powers if they claim that there was not a continuation of this scientific investigation, we will say, or the restriction placed. Well then, if the Japanese wanted to press their claim, I presume that she could annul the treaty with one year's notice?—A. After ten years she could annul with one year's notice.

Q. So the protection then, so far as our salmon, halibut and herring fisheries are concerned is for a period of eleven years as a maximum?—A. That is right, sir.

Q. Unless it is renewed?—A. That is right, sir.

Q. And there again there is some fear that this is not a very long-term agreement. That is why I am asking that question.—A. Of course, on that question, sir, the treaty itself continues indefinitely after the end of the ten-year period unless a country gives one year's notice. It does not automatically cease at the end of ten years; it may continue.

Q. The other types of fish, such as crab, flat-fish, various types of cod, tuna and pilchards, the Japanese can come and fish those right up to the three-mile limit of our territorial waters. They cannot go into our territorial waters, can they, to fish those?—A. That is correct, sir, they cannot go into our territorial waters and they always had the right to fish beyond the territorial waters. A little earlier in your remarks you said this treaty gave the Japanese the right to come to the Canadian coast. The treaty does not give them the right. They have always had the right. Other nations have the right. What this treaty does is restrain them from using that right in salmon, herring and halibut fishing, but the traditional right for fishing the other species will remain unless we can get these covered by the principles agreed to in the treaty at some time.

Q. Well, of course, those types or species of fish are increasing in importance, and there is a good deal of scientific research being carried out now in so far as the crab, pilchard and some of the other species are concerned, particularly in the biological laboratory at Departure Bay; and I was wondering why a claim had not been staked on scientific research which is being carried out by Canada at the present time because, if we wanted to exclude those species and we asked either the United States or the Japanese to refrain from fishing crab or flatfish, we should be confronted with difficulties because we have not established any claim at the present time to scientific research being carried out on those species, but it is actually being done—was any attempt made to establish a claim?—A. Yes, sir, it is true, as the hon. member says, that a good deal of scientific work has been done on other species in British Columbia. Before such other species, however, can meet the principles, there has to be some scientific research: there has also to be regulation and maximum utilization. Now, it was on these last two counts that we encountered difficulty in attempting to prove that such species met these other two conditions.

I would remind the committee also that the United States was only able to get two species into their abstention—salmon and halibut. They were not able to bring in pilchards or tuna, the fish in which there is some evidence of depletion, but as to which they were unable to bring that third principle to apply. We were able to have it apply on three species. We could not prove it for these others just mentioned. We are determined, of course, to continue our scientific work, to apply regulations if necessary—we have now, and if these other species move into maximum utilization during the time of this convention, then we would in the ordinary course bring it forward to the commission.

*By Mr. Gibson:*

Q. Did they try to establish pilchards as being utilized to the maximum?  
—A. Yes.

Q. I should have imagined they could have proved that very easily by depletion?—A. You refer to the United States?

Q. Yes.—A. Well, they were unable to indicate that they had had maximum utilization and regulation applying on pilchards over a period of years.

*By Mr. Herridge:*

Q. At this point, I would like to ask Mr. Bates a question. I know quite a bit of sports fishing but not commercial fishing. I understand that pilchards are a variety of herring biologically, is that correct?—A. I am no biologist, sir.

Q. They are distinct?—A. They are a distinct species, yes. They are more akin to the sardine family.

*By Mr. Pearkes:*

Q. Regarding the crab fishing, there are certain regulations, I believe, imposed by the United States—restrictions regarding the fishing of crab off the coasts of Washington and Oregon that do not apply to any crab fishing in Queen Charlotte Sound or off the west coast of Vancouver Island?—A. Well, our regulations on crabs are few and I doubt if they are the same, as the American.

Q. I think the case is that the American draggers can come up and fish off our coast, but they are prohibited from fishing off the coasts of the states of Oregon and Washington, and there is a feeling there that perhaps some regulation might be required to prevent not only Americans but the Japanese coming and fishing our crab during certain seasons of the year. Then, there are no provisions, are there, restricting the type of equipment that anybody could use? We do prohibit the Japanese from fishing salmon, herring and halibut; but, if certain types of equipment are used to catch other species, is there not a danger that the young fry of those species will be destroyed? A Japanese vessel might be fishing for some other species and may by the nature of the equipment it is using destroy a large quantity of the young life of the species which it must abstain from fishing. What prevention against that have we?—A. We have encountered that kind of question in some of our other conventions, particularly in the case of halibut. In this particular convention the commission is, as we saw the other day, not a regulatory body. This commission cannot pass regulations. It does, however, have the power to investigate the kind of question you are raising now. It has the power to look at it and investigate it scientifically and to make recommendations to the three governments for the meeting of that kind of question; that is, it can make recommendations as to mesh size, types of gear, etc. So, within the convention there is for the first time an instrument for dealing with that kind of question should it arise on the high seas.

*By Mr. Gibson:*

Q. That in itself is a great advance, I would say?—A. Yes.

*By Mr. Pearkes:*

Q. But at the present time there are no restrictions as to any type of equipment which may be used in the catching of the species which are permitted to be caught?—A. By the Japanese?

Q. By the Japanese.—A. That is right, sir.

Q. And, of course, there are no restrictions as to the type of equipment which can be used by the Americans, are there?—A. No, and as to extra-territorial waters, there never were any such restrictions. We now have in this convention an instrument that can be used to investigate such questions and to recommend regulations should restriction be necessary.

*By Mr. Applewhaite:*

Q. Are there any such restrictions imposed on Canadian fishermen concerning the species excluded from the Act?—A. Well, they cannot dynamite them, for instance. We have mesh sizes and so on, but this applies only to territorial waters, whereas the Treaty deals entirely with extra-territorial waters.

*By Mr. Pearkes:*

Q. And you have certain areas, don't you, in which it is permitted for otter-trawlers to operate in?—A. Yes.

Q. It was that sort of thing which I was referring to and against which it does not seem to me that adequate protection is provided in the agreement—in fact you have stated that there are no limitations placed in this agreement although the matter might come up for discussion at some future time. I wonder whether perhaps, looking to the future, any agreement which might be made based on this pattern should not have some clauses in it limiting the type of equipment which might be used? Now, that is talking of the future and not talking directly on this agreement, but it is something which I feel is of very considerable concern to the fishing industry.

And then my final question, dealing with article No. 10, which is an article which deals with the way in which breaches of this convention are dealt with. A Canadian inspector may board an American or Japanese vessel and if it is found that the vessel has been breaking any part of the agreement, then that vessel is returned to the authorities of the country of origin, I presume, where the vessel is registered, to be dealt with.

Now, is that general practice in international law, that where a vessel of another country is infringing the regulations of the country it is visiting that such punishment as is required would be meted out by the country of origin?—A. Yes, sir. If any foreign vessel on either coast comes within Canadian territorial waters, then it is infringing a Canadian law and our patrol vessels will seize such foreign vessel and try them in Canadian courts.

Here in this convention however we are dealing with the high seas and you asked whether the principle of boarding and seizure we use here is the normal one. It is the same as the one we use in our salmon and halibut conventions with the United States. That is, if a patrol vessel of our country finds an American vessel on the high seas breaking the salmon and halibut regulations, it informs the American authorities and the vessel is passed over to the American authorities and the American courts for handling there and vice versa in the case of our vessels. The same principle had to be applied here so far as the high seas were concerned.

We have no rights over foreign vessels on the high seas except such rights as are given us by treaty and in this treaty we get the right from the Japanese to board their vessels on our side of the Pacific to see if they are catching those three forbidden species. And if we find them fishing them, we seize and pass them to the Japanese authorities for handling in their courts. It is the same principle as used in the salmon and halibut commissions.

Q. There is a feeling, not unnaturally, that it would hardly be a serious deterrent to a Japanese vessel fishing off our Pacific coast. We know the Japanese are fish hungry. They must get all the fish they can to eat. We also

know that Japan is very anxious to obtain American dollars and it would not be unreasonable to think that if a vessel was carrying out the general economic policy of that country in trying to get all the fish possible or trying to sell its product to the United States that the captain would be dealt with quite leniently for an infringement which we might consider far more serious. There is no international court of justice which could deal with such a situation, is there, and to which this matter could be referred?—A. That question has not hitherto been treated in that kind of way. The danger you mention may be present. There is, however, no piece of legislation, no treaty that can turn fishermen or fishing masters into saints, and if the Japanese did the things you mentioned it would be a breach of the convention.

We have to take it on faith at this stage. We ourselves have more patrol vessels on the seas than formerly. The Japanese are required to provide the commission with full information as to the penalties imposed for these infractions. The commission itself is given power to review these penalties after the treaty has been in operation for five years and to determine whether or not they are operating properly and we do not see, sir, any better way except using the commission in which we and the Americans are present as the over-all court of inquiry into the infractions.

Q. Thank you. I can understand the anxiety which has been felt. In the past Japanese fishing on the Canadian coast from Canadian boats were subject, of course, to Canadian regulations. Now we are faced with a new era in which there will be boats coming from Japan so we may anticipate fishing in our off-shore waters? May I ask how many patrol vessels the department has on the Pacific coast, and whether it is considered that the number of patrol vessels is adequate to provide the protection which is necessary at seasons when fishing is at its highest?—A. Yes, sir. Answering the former question first, you refer to the anxieties that might be present for fishermen because of Japanese fishing off our coast. There is nothing in the convention to induce the Japanese to fish more than they did in the past off our coast.

Q. Except general world conditions?—A. General world conditions are perhaps not such as to make it worth while to travel 4,000 miles for fish that you would get 2,000 miles from home. I think two factors must be borne in mind. A factory ship from Japan could probably make out better and have a more profitable expedition closer to home than off the British Columbia coast. Secondly, our fishing industry now has better protection than it had before; it is no longer possible for the Japanese to come over and fish salmon on the most profitable species; so the danger from Japanese fishing is greatly reduced from what it was before. As to the patrol situation, we have on the Pacific coast 33 ships. They are not all capable, of course, of going out on the high seas. We have three large ones that are, and a group in between—65 footers—that can certainly do patrol work on the outside of Vancouver Island and the Queen Charlottes. We have, of course, our naval vessels. Canada has more naval vessels than in the past. We have our weather ships stationed at regional observation spots on the Pacific coast. The Americans are equally interested in Japanese fishing whether it is off British Columbia or off Alaska and they have increased protection through effective means; so I think it is safe to assume that we have more means of protection than we have had before. As time passes it may be necessary of course to add to the fishery patrol fleet.

Q. One other question which arises out of that. Would an American fishery vessel or a coast guard vessel be permitted to go into Hecate Strait and examine Canadian vessels?—A. No, not under this treaty. We are talking about the high seas, and so far as the high seas go an American patrol vessel can just as well act for Canada under this treaty because the Japanese agreed that any boat fishing in areas containing salmon, halibut, or herring, must submit to inspection by an American or Canadian patrol and if they were

caught fishing halibut, herring or salmon, they can be seized and turn over for prosecution. So we have the American protective devices working with us so far as the high seas go.

*By Mr. Applewhaite:*

Q. Mr. Chairman, there are one or two questions I would like to ask. I am afraid they are rather disconnected. I would like to ask the deputy minister if, under this treaty, a floating cannery from Japan did come over to the waters of the Pacific coast, what species could they fish and can?—A. They could fish and can any species not included in the Act.

Q. What species have we left which lend themselves to canning?—A. To canning?

Q. Yes.—A. Principally crab, they may be canned. There is nothing against that. Also, a floating refrigerator ship might operate on rock cod, and ground fish of that kind.

Q. And that would be freezing?—A. That would be freezing, refrigeration.

Q. I asked at the last meeting, Mr. Chairman, what possibility was under this treaty, of Japanese vessels coming across and fishing British Columbia species which are not protected and landing their catch in Canada; in other words, not having to take them home. I think Mr. Bates said that so far as Canada was concerned, that was impossible, but, thinking it over, I don't think he told us why. I am wondering if you would enlarge on that, sir?—A. Well, under the Canadian Customs and Fisheries Act, Section 10, there are three paragraphs covering foreign fishing vessels in Canadian waters. In these cases entry is forbidden for any purpose, including the landing of fish; so that it is impossible for a Japanese floating factory to come across to our shores and after they have made their catch to bring it into a Canadian port. The only way it could be done is by Canada making a special treaty with Japan giving her that right, and this we have not done. We have made such a treaty with the United States on halibut fishing vessels.

Mr. GILLIS: That is right.

The WITNESS: Under a special treaty with the United States respecting halibut fishing vessels, we gave them that right.

Mr. APPLEWHAITE: That is a reciprocal right?

The WITNESS: Yes.

*By Mr. Gibson:*

Q. What about fish they canned which was caught and canned off the coast, Tuna for instance? Would they not have the right to land that at some port on our coast? We accept foreign Tuna.—A. Not from a factory ship. They would have to transfer it to a merchant ship, or to a Canadian ship, on the high seas, and bring it to a Canadian port, and then it would be subject to the usual customs duties.

Q. But a fishing vessel would be excluded?—A. That is right.

*By Mr. Applewhaite:*

Q. In that case it would be a foreign merchant ship entering a Canadian port, and it would have to pay duty, of course?—A. That is right.

Q. Can you give us any idea of what proportion of the crab catch of the whole North American coast is taken in extra-territorial waters?—A. I am sorry, Mr. Chairman, I will have to check the figures on that one.

Q. If it is possible I would like to have that information because it would give us an indication of the extent to which crab are subject to foreign fishing, and to what extent the catch is within territorial limits. I think perhaps the committee should have that as crab have been referred to several times.



The CHAIRMAN: That information will be prepared and given to the committee later on.

The WITNESS: You are only interested in crabs off British Columbia, not in the Behring Sea?

*By Mr. Applewhaite:*

Q. No, I am not particularly interested in that.—A. The Japanese value the large crab in the Behring Sea more than off our coast, Mr. Applewhaite. They are not likely to be interested in fishing crab off our coast because the Behring Sea is very much closer to Japan, so one must expect fishing for crabs to take place in the area adjacent to Behring Sea and to continue there for quite a while before they become tempted to go further afield for a smaller crab and fewer of them.

Q. I think, crab having been discussed, that such information as is available might be made available to the committee later on.—A. I think we can say off hand that the bulk of the crab fishing is inside Canadian territorial waters; that would be about all we could give you; other than that we might not be able to supply the figures for you.

Q. If the department has any information on that, you will prepare it for us?—A. Yes.

Q. In connection with the enforcement provisions—and I think it is fair perhaps to preface this question with one observation, and I am speaking of the treaty; if we assumed that any of the parties are going deliberately to sidetrack it and try to evade it, the treaty has no value, even the enforcement provisions; if we were to have here provision which would enable Canadian officers to seize Japanese vessels on the high seas and bring them into Canada for trial would you not at the same time have to accept that principle in reverse and make our vessels subject to seizure and to being taken to Japanese courts for trial?—A. Yes. The Japanese raised that question during the discussions. They pointed out that they would abstain from the fishing of halibut, salmon and herring. And then they said that, if we wished to board their vessels that as a corollary they should have the right of boarding Canadian fishing vessels to see if the latter were carrying out the terms of the halibut, salmon and herring regulations; so it would be reciprocal. If we wish to board their vessels on the high seas, they should have the same right to board and arrest our vessels. We, of course, had to take the attitude that Japanese boarding Canadian vessels close to our territorial waters would hardly be a propitious action especially at this particular point of time; and the final determination of article 10 was based, as I said, on considerations both ways.

Q. I just brought that question up at this time. Now, in connection with the patrol service on the Pacific coast, do you ever use planes at all?—A. Yes, we have used planes often, for several years now. We have found them very effective. We use them in co-operation with our ships and with which they have inter-communication by radio-telephone. The plane service would increase should there be an indication of an increase in Japanese fishing anywhere near our shores. Both the United States and ourselves would probably extend that type of overhead patrol.

*By Mr. Mott:*

Q. Mr. Bates, I have one question I wanted to ask. In your explanation at our last meeting you mentioned that this agreement was really based on working on conservation between United States and Canada; that it was on that that you could make an agreement such as you made. Would it have been possible—and this question has come up out on the Pacific coast—would it have been possible at all to make a bi-partite agreement with Japan leaving the United States out of the question?—A. That was impossible. The chief

reason was that Japan would not agree to such a proposal. The kind of bilateral treaty we would like to have made would have been one in which each agreed to stay off the other's shores. The Japanese simply would not subscribe to that kind of treaty, arguing that if they made that kind of a treaty with Canada they would have to make the same kind of a treaty with Russia, China, Malaya, Australia, the Mariannas, the Philippines, and so on. They said they could not subscribe to that principle, otherwise they would be tied in throughout the whole of the Pacific basin with no fisheries left to them. That was the first point. The second point was this, that the United States and Japan intended to make a fisheries agreement anyway, and they were going to make it along the particular lines of this agreement. Now, had they gone ahead and done so and had we stayed out, we would have lost the opportunity to get the benefit of the protective proviso provided in article IV of this agreement. To make a separate treaty with Japan at all, it would have had to be along the lines of this one. As a matter of fact, if it had been possible to make a separate treaty, we would have lost out on the chance to get that portion included in there which gives to Canada, as a young fishing country, the equivalent of historical fishing rights from Alaska south. So we entered into this treaty to get that concession, but at the same time we tried to frame the agreement in such a way that we were not making a strictly Canadian-American treaty, touching on questions like Hecate Straits or territorial waters. We framed the treaty in such a way that these questions were left for the future; but that we would get from this convention that particular protection from the Gulf of Alaska southwards.

You gentlemen will recognize what it is. We are subscribing here to a treaty in which we are asking Japan to abstain from fishing down that coast, and we will likely ask any foreign country to abstain from fishing in that area on the same principle. So we were subscribing to a treaty that had included in it one clause that withheld Canada from the operation of the restrictive provisions. We could not have got that by a straight bilateral treaty with Japan. That was the only way you could get it, and we do get it here. We also had included this other clause which left the other Canadian-American questions untouched by the treaty.

The CHAIRMAN: Are there any further questions, gentlemen? Have you anything further you would like to address to the committee, Mr. Bates?

The WITNESS: No, thank you, sir.

The committee adjourned.

## APPENDIX "A"

DRAFT INTERNATIONAL CONVENTION FOR THE HIGH SEAS  
FISHERIES OF THE NORTH PACIFIC OCEAN

CANADA — JAPAN — UNITED STATES

TOKYO, JAPAN, December, 1951

TRIPARTITE FISHERIES CONFERENCE, TOKYO

November 5 through December 13, 1951

*Resolutions and Request*1. *Representatives*

The Governments of Canada, Japan, and the United States of America, having accepted the invitation extended to them by the Government of Japan to participate in a Tripartite Fisheries Conference, appointed their respective representatives, who are listed below by countries, and by organizations, in the order of alphabetical precedence:

## Canada:

- The Honourable Robert W. Mayhew, Minister of Fisheries; Chairman of Delegation.
- Mr. Stewart Bates, Deputy Minister of Fisheries; Vice Chairman.
- Mr. E. T. Appleyhaite, Member of Parliament.
- Mr. Arthur R. Menzies, Canadian Diplomatic Representative, Tokyo.
- Mr. Samuel V. Ozere, Legal Adviser, Department of Fisheries.
- Dr. John L. Hart, Director, Pacific Biological Station.
- Mr. John M. Buchanan, President, British Columbia Packers, Limited.

## Japan:

- The Honourable Ryutaro Nemoto, Minister of Agriculture and Forestry.
- Mr. Sadao Iguchi, Vice-Minister of Foreign Affairs.
- Mr. Iwao Fujita, Director, Fisheries Agency.
- Mr. Jun Tsuchiya, Director, European and American Affairs Bureau, Ministry of Foreign Affairs.
- Mr. Masao Sogawa, Director, Production Division, Fisheries Agency.
- Mr. Tsunejiro Hiratsuka, President, Japan Deep-Sea Fisheries Council; Adviser.
- Mr. Tahei Iiyama, Vice-President, Japan Deep-Sea Fisheries Council; Adviser.
- Mr. Hachiya Obama, Vice-President, Japan Deep-Sea Fisheries Council; Adviser.
- Mr. Kenkichi Nakabe, Vice-President, Taiyo Fisheries Co., Ltd.; Adviser.
- Mr. Kyuhei Suzuki, President, Nippon Suisan Co., Ltd.; Adviser.
- Mr. Toshimaru Yokoyama, President, Federation of Japan Tuna Fishermen's Co-operative Associations; Adviser.
- Mr. Shozaburo Yokota, President, National Association of Fishing Villages; Adviser.

## United States of America:

- Mr. William C. Herrington, Special Assistant to the Under Secretary of State, Department of State; Chairman of the Delegation.
- Mr. Milton C. James, Assistant Director, Fish and Wildlife Service, Department of the Interior; United States Commissioner, International Fisheries Commission, Inter-American Tropical Tuna Commission, International Commission for the Scientific Investigation of Tuna; Alternate Delegate.

- Mr. Warren F. Looney, Foreign Affairs Officer, Office of the Special Assistant to the Under Secretary of State, Department of State; Member.
- Mr. Edward W. Allen, Allen, Hilen, Froude, DeGarmo and Leedy, Seattle; United States Commissioner and Chairman, International Fisheries Commission; Vice-Chairman, Pacific Fisheries Conference; Adviser.
- Mr. Milton E. Brooding, California Packing Corporation, San Francisco; Chairman of Executive Committee, Pacific Fisheries Conference; Adviser.
- Mr. Richard S. Croker, Chief, Bureau of Marine Fisheries, Department of Fish and Game, State of California; Chairman, Pacific Marine Fisheries Commission; Adviser.
- Mr. Donald P. Loker, President, High Seas Tuna Packing Company, San Diego; Member, Executive Committee, Pacific Fisheries Conference; Adviser.
- Mr. Harold E. Lokken, Manager, Fishing Vessel Owners Association, Seattle; Member, Executive Committee, Pacific Fisheries Conference; Adviser.

## 2. Proceedings

A. The Chairman requested the confirmation by the representative of each Government of the following facts:

1. The Tripartite Fisheries Conference between Canada, Japan, and the United States of America was held at Tokyo, Japan, from November 5, 1951 to December 13, 1951.
2. The Japanese Government was the official sponsoring government to this Conference.
3. Mr. Ryutaro Nemoto, Minister of Agriculture and Forestry of Japan, was elected Honorary Chairman of the Conference and Mr. Sadao Iguchi, Vice-Minister for Foreign Affairs, was elected Permanent Chairman.
4. The sessions of the Conference were held at the Ministry of Foreign Affairs at Tokyo, Japan.

B. The Chairman stated that the Japanese government as the sponsor expresses its gratitude to the delegations of Canada and the United States of America for the understanding and co-operation shown in bringing the conference to a successful culmination.

## 3. Resolutions

A. The Conference adopted the following resolution on motion of the representatives of Canada and the United States of America:

### *Resolution I*

The Conference resolves:

1. To express its gratitude to the Minister for Foreign Affairs of Japan, His Excellency, Mr. Shigeru Yoshida, for his initiative in convening the present conference and for its preparation;
2. To express to its Honorary Chairman, Mr. Ryutaro Nemoto, Minister of Agriculture and Forestry, and its Permanent Chairman, Mr. Sadao Iguchi, Vice-Minister for Foreign Affairs, its deep appreciation for the excellent manner in which they have guided the Conference and brought it to a successful conclusion;

3. To express to Mr. Toshiro Shimanouchi of the Ministry of Foreign Affairs and other members of the Secretariat its appreciation for their able and untiring services and diligent efforts in contributing to the fruition of the purposes and objectives of the Conference.

B. The Conference adopted the following resolution:

*Resolution II*

The representatives of the Governments of Canada, Japan and the United States of America here assembled, recognizing the mutual interest of their respective Governments in the development and proper utilization of stocks of fish in the north Pacific ocean, and believing that this end can best be attained by international collaboration, do hereby recommend to their respective governments that a convention conforming to the draft which has here been agreed to by their representatives and is appended to these resolutions be concluded between the three countries as speedily as possible.

C. The Conference adopted the following resolution on motion of the representative of the United States of America:

*Resolution III*

Believing that it is necessary to follow principles which provide a sound basis for the orderly development and exploitation of high seas fisheries in the interest of maximum sustained yields the Conference recommends that, in negotiating with other governments in respect to problems similar to those covered by this convention, the contracting parties shall give full consideration to the spirit and intent of this convention.

4. *Request*

The Conference agreed to the following request in accordance with the proposal of the representatives of Canada:

The Conference requests:

That as soon as may be convenient after entry into force of the International Convention for the High Seas Fisheries of the North Pacific Ocean the Government of the United States of America initiate steps for the holding of the first meeting of the International North Pacific Fisheries Commission without prejudice, however, to the determination of the ultimate location of the seat of the Commission.

In Witness Whereof, the following representatives sign the present Resolutions.

Done in triplicate, in the English and Japanese languages at Tokyo, on the thirteenth day of December, nineteen hundred fifty-one.

CANADA:

JAPAN:

UNITED STATES OF AMERICA:

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APPENDIX

Draft International Convention for the High Seas Fisheries of the North Pacific Ocean.

DRAFT INTERNATIONAL CONVENTION FOR THE HIGH SEAS  
FISHERIES OF THE NORTH PACIFIC OCEAN

The Governments of Canada, the United States of America, and Japan, whose respective duly accredited representatives have subscribed hereto,

Acting as sovereign nations in the light of their rights under the principles of international law and custom to exploit the fishery resources of the high seas, and

Believing that it will best serve the common interest of mankind, as well as the interests of the Contracting Parties, to ensure the maximum sustained productivity of the fishery resources of the North Pacific Ocean, and that each of the Parties should assume an obligation, on a free and equal footing, to encourage the conservation of such resources, and

Recognizing that in view of these considerations it is highly desirable (1) to establish an International Commission, representing the three Parties hereto, to promote and co-ordinate the scientific studies necessary to ascertain the conservation measures required to secure the maximum sustained productivity of fisheries of joint interest to the Contracting Parties and to recommend such measures to such Parties and (2) that each Party carry out such conservation recommendations, and provide for necessary restraints on its own nationals and fishing vessels,

Therefore agree as follows:

*Article I*

1. The area to which this Convention applies, hereinafter referred to as "the Convention area", shall be all waters, other than territorial waters, of the North Pacific Ocean which for the purposes hereof shall include the adjacent seas.

2. Nothing in this Convention shall be deemed to affect adversely (prejudice) the claims of any Contracting Party in regard to the limits of territorial waters or to the jurisdiction of a coastal state over fisheries.

3. For the purposes of this Convention the term "fishing vessel" shall mean any vessel engaged in catching fish or processing or transporting fish loaded on the high seas, or any vessel outfitted for such activities.

*Article II*

1. In order to realize the objectives of this Convention, the Contracting Parties shall establish and maintain the International North Pacific Fisheries Commission, hereinafter referred to as "the Commission."

2. The Commission shall be composed of three national sections, each consisting of not more than four members appointed by the governments of the respective Contracting Parties.

3. Each national section shall have one vote. All resolutions, recommendations and other decisions of the Commission shall be made only by a unanimous vote of the three national sections except when under the provisions of Article III, Section 1 (c) (ii) only two participate.

4. The Commission may decide upon and amend, as occasion may require, by-laws or rules for the conduct of its meetings.

5. The Commission shall meet at least once each year and at such other times as may be requested by a majority of the national sections. The date and place of the first meeting shall be determined by agreement between the Contracting Parties.

6. At its first meeting the Commission shall select a Chairman, Vice-Chairman and Secretary from different national sections. The Chairman, Vice-Chairman and Secretary shall hold office for a period of one year. During succeeding years selection of a Chairman, Vice-Chairman and Secretary from the national sections shall be made in such a manner as will provide each Contracting Party in turn with representation in those offices.

7. The Commission shall decide on a convenient place for the establishment of the Commission's headquarters.

8. Each Contracting Party may establish an Advisory Committee for its national section, to be composed of persons who shall be well informed concerning North Pacific fishery problems of common concern. Each such Advisory Committee shall be invited to attend all sessions of the Commission except those which the Commission decides to be *in camera*.

9. The Commission may hold public hearings. Each national section may also hold public hearings within its own country.

10. The official languages of the Commission shall be Japanese and English. Proposals and data may be submitted to the Commission in either language.

11. Each Contracting Party shall determine and pay the expenses incurred by its national section. Joint expenses incurred by the Commission shall be paid by the Commission through contributions made by the Contracting Parties in the form and proportion recommended by the Commission and approved by the Contracting Parties.

12. An annual budget of joint expenses shall be recommended by the Commission and submitted to the Contracting Parties for approval.

13. The Commission shall authorize the disbursement of funds for the joint expenses of the Commission and may employ personnel and acquire facilities necessary for the performance of its functions.

### Article III

1. The Commission shall perform the following functions:

- (a) In regard to any stock of fish specified in the Annex, study for the purpose of determining annually whether such stock continues to qualify for abstention under the provisions of Article IV. If the Commission determines that such stock no longer meets the conditions of Article IV, the Commission shall recommend that it be removed from the Annex. Provided, however, that with respect to the stocks of fish originally specified in the Annex, no determination or recommendation as to whether such stock continues to qualify for abstention shall be made for five years after the entry into force of this Convention.
- (b) To permit later additions to the Annex, study, on request of a Contracting Party, any stock of fish of the Convention area, the greater part of which is harvested by one or more of the Contracting Parties, for the purpose of determining whether such stock qualifies for abstention under the provisions of Article IV. If the Commission decides that the particular stock fulfils the conditions of Article IV it shall recommend, (1) that such stock be added to the Annex, (2) that the appropriate Party or Parties abstain from fishing such stock and (3) that the Party or Parties participating in the fishing of such stock continue to carry out necessary conservation measures.

- (c) In regard to any stock of fish in the Convention area,
  - (i) Study, on request of any Contracting Party concerned, any stock of fish which is under substantial exploitation by two or more of the Contracting Parties, and which is not covered by a conservation agreement between such Parties existing at the time of the conclusion of this Convention, for the purpose of determining need for joint conservation measures;
  - (ii) Decide and recommend necessary joint conservation measures including any relaxation thereof to be taken as a result of such study. Provided, however, that only the national sections of the Contracting Parties engaged in substantial exploitation of such stock of fish may participate in such decision and recommendation. The decisions and recommendations shall be reported regularly to all the Contracting Parties, but shall apply only to the Contracting Parties the national sections of which participated in the decisions and recommendations;
  - (iii) Request the Contracting Party or Parties concerned to report regularly the conservation measures adopted from time to time with regard to the stocks of fish specified in the Annex, whether or not covered by conservation agreements between the Contracting Parties, and transmit such information to the other Contracting Party or Parties.
- (d) Consider and make recommendations to the Contracting Parties concerning the enactment of schedules of equivalent penalties for violations of this Convention.
- (e) Compile and study the records provided by the Contracting Parties pursuant to Article VIII.
- (f) Submit annually to each Contracting Party a report on the Commission's operations, investigations and findings, with appropriate recommendations, and inform each Contracting Party, whenever it is deemed advisable, on any matter relating to the objectives of this Convention.

2. The Commission may take such steps, in agreement with the Parties concerned, as will enable it to determine the extent to which the undertakings agreed to by the Parties under the provisions of Article V, Section 2 and the measures recommended by the Commission under the provisions of this Article and accepted by the Parties concerned have been effective.

3. In the performance of its functions, the Commission shall, insofar as feasible, utilize the technical and scientific services of, and information from, official agencies of the Contracting Parties and their political sub-divisions and may, when desirable and if available, utilize the services of, and information from, any public or private institution or organization or any private individual.

#### *Article IV*

1. In making its recommendations the Commission shall be guided by the spirit and intent of this Convention and by the considerations below mentioned.
  - (a) Any conservation measures for any stock of fish decided upon under the provisions of this Convention shall be recommended for equal application to all Parties engaged in substantial exploitation of such stock.
  - (b) With regard to any stock of fish which the Commission determines reasonably satisfies all the following conditions, a recommendation shall be made as provided for in Article III, Section 1, (b).



- (i) Evidence based upon scientific research indicates that more intensive exploitation of the stock will not provide a substantial increase in yield which can be sustained year after year,
- (ii) The exploitation of the stock is limited or otherwise regulated through legal measures by each Party which is substantially engaged in its exploitation, for the purpose of maintaining or increasing its maximum sustained productivity; such limitations and regulations being in accordance with conservation programs based upon scientific research, and
- (iii) The stock is the subject of extensive scientific study designed to discover whether the stock is being fully utilized and the conditions necessary for maintaining its maximum sustained productivity.

Provided, however, that no recommendation shall be made for abstention by a Contracting Party concerned with regard to: (1) any stock of fish which at any time during the twenty-five years next preceding the entry into force of this Convention has been under substantial exploitation by that Party having regard to the conditions referred to in Section 2 of this Article; (2) any stock of fish which is harvested in greater part by a country or countries not party to this Convention; (3) waters in which there is historic inter-mingling of fishing operations of the Parties concerned, inter-mingling of the stocks of fish exploited by these operations, and a long-established history of joint conservation and regulation among the Parties concerned so that there is consequent impracticability of segregating the operations and administering control. It is recognized that the conditions specified in subdivision (3) of this proviso apply to Canada and the United States of America in the waters of the Pacific Coasts of the United States of America and Canada from and including the waters of the Gulf of Alaska southward and, therefore, no recommendation shall be made for abstention by either the United States of America or Canada in such waters.

2. In any decision or recommendation allowances shall be made for the effect of strikes, wars, or exceptional economic or biological conditions which may have introduced temporary declines in or suspension of productivity, exploitation, or management of the stock of fish concerned.

#### Article V

1. The Annex attached hereto forms an integral part of this Convention. All references to "Convention" shall be understood as including the said Annex either in its present terms or as amended in accordance with the provisions of Article VII.

2. The Contracting Parties recognize that any stock of fish originally specified in the Annex to this Convention fulfills the conditions prescribed in Article IV and accordingly agree that the appropriate Party or Parties shall abstain from fishing such stock and the Party or Parties participating in the fishing of such stock shall continue to carry out necessary conservation measures.

#### Article VI

In the event that it shall come to the attention of any of the Contracting Parties that the nationals or fishing vessels of any country which is not a Party to this Convention appear to affect adversely the operations of the Commission or the carrying out of the objectives of this Convention, such Party shall call the matter to the attention of other Contracting Parties. All the Contracting Parties agree upon the request of such Party to confer upon the steps to be taken towards obviating such adverse effects or relieving any Contracting Party from such adverse effects.

*Article VII*

1. The Annex to this Convention shall be considered amended from the date upon which the Commission receives notification from all the Contracting Parties of acceptance of a recommendation to amend the Annex made by the Commission in accordance with the provisions of Article III, Section 1.

2. The Commission shall notify all the Contracting Parties of the date of receipt of each notification of acceptance of an amendment to the Annex.

*Article VIII*

The Contracting Parties agree to keep as far as practicable all records requested by the Commission and to furnish compilations of such records and other information upon request of the Commission. No Contracting Party shall be required hereunder to provide the records of individual operations.

*Article IX*

1. The Contracting Parties agree as follows:

(a) With regard to a stock of fish from the exploitation of which any Contracting Party has agreed to abstain, the nationals and fishing vessels of such Contracting Party are prohibited from engaging in the exploitation of such stock of fish in waters specified in the Annex, and from loading, processing, possessing, or transporting such stock of fish in such waters.

(b) With regard to a stock of fish for which a contracting party has agreed to continue to carry out conservation measures, the nationals and fishing vessels of such party are prohibited from engaging in fishing activities in waters specified in the annex in violation of regulations established under such conservation measures.

2. Each contracting party agrees, for the purpose of rendering effective the provisions of this convention, to enact and enforce necessary laws and regulations, with regard to its nationals and fishing vessels, with appropriate penalties against violations thereof and to transmit to the commission a report on any action taken by each party with regard thereto.

*Article X*

1. The contracting parties agree, in order to carry out faithfully the provisions of this convention, to co-operate with each other in taking appropriate and effective measures and accordingly agree as follows:

(a) When a fishing vessel of a contracting party has been found in waters in which that party has agreed to abstain from exploitation in accordance with the provisions of this convention, the duly authorized officials of any contracting party may board such vessel to inspect its equipment, books, documents, and other articles and question the persons on board.

Such officials shall present credentials issued by their respective governments if requested by the master of the vessel.

(b) When any such person or fishing vessel is actually engaged in operations in violation of the provisions of this convention, or there is reasonable ground to believe was obviously so engaged immediately prior to boarding of such vessel by any such official the latter may arrest or seize such person or vessel. In that case, the contracting party to which the official belongs shall notify the contracting party to which such person or vessel belongs of such arrest or seizure and shall deliver such vessel or person as promptly as practicable to the authorized officials of the contracting party to which such vessel or person belongs at a place to be agreed upon by both parties. Provided,

however, that when the contracting party which receives such notification cannot immediately accept delivery and makes request, the contracting party which gives such notification may keep such person or vessel under surveillance within its own territory, under the conditions agreed upon by both of the contracting parties.

(c) Only the authorities of the party to which the above-mentioned person or fishing vessel belongs may try the offence and impose penalties therefor. The witnesses and evidence necessary for establishing the offence, so far as they are under the control of any of the parties to this convention, shall be furnished as promptly as possible to the contracting party having jurisdiction to try the offence.

2. With regard to the nationals or fishing vessels of one or more contracting parties in waters with respect to which they have agreed to continue to carry out conservation measures for certain stocks of fish in accordance with the provisions of this convention, the contracting parties concerned shall carry out enforcement severally or jointly. In that case, the contracting parties concerned agree to report periodically through the commission to the contracting party which has agreed to abstain from the exploitation of such stocks of fish on the enforcement conditions, and also, if requested, to provide opportunity for observation of the conduct of enforcement.

3. The Contracting Parties agree to meet, during the sixth year of the operation of this Convention, to review the effectiveness of the enforcement provisions of this Article and, if desirable, to further consider means by which they may more effectively be carried out.

#### Article XI

1. This Convention shall be ratified by the Contracting Parties in accordance with their respective constitutional processes and the instruments of ratification shall be exchanged as soon as possible at Tokyo.

2. This Convention shall enter into force on the date of the exchange of ratifications. It shall continue in force for a period of ten years and thereafter until one year from the day on which a Contracting Party shall give notice to the other Contracting Parties of an intention of terminating the Convention, whereupon it shall terminate as to all Contracting Parties.

In witness whereof, the respective Plenipotentiaries, duly authorized, have signed the present Convention.

Done in triplicate, in the English and Japanese languages, both equally authentic, at Tokyo this.....day of one thousand nine hundred fifty.....

#### Annex

1. With regard to the stocks of fish and the waters named below, Japan agrees to abstain from fishing, and Canada and the United States of America agree to continue to carry out necessary conservation measures, in accordance with the provisions of Article V, Section 2 of this Convention:

(a) Halibut (*Hippoglossus stenolepis*)

The Convention area off the coasts of Canada and the United States of America in which commercial fishing for halibut is being or can be prosecuted. Halibut referred to herein shall be those originating along the coast of North America.

(b) Herring (*Clupea pallasii*)

The Convention area off the coasts of Canada and the United States of America, exclusive of the Behring Sea and of the waters of the

North Pacific Ocean west of the meridian passing through the extremity of the Alaskan Peninsula, in which commercial fishing for herring of North American origin is being or can be prosecuted.

- (c) Salmon (*Oncorhynchus gorbusha*, *Oncorhynchus keta*, *Oncorhynchus kitsutch*, *Oncorhynchus nerka*, *Oncorhynchus tshawytscha*) The Convention area off the coasts of Canada and the United States of America, exclusive of the Behring Sea and of the waters of the North Pacific Ocean west of a provisional line following the meridian passing through the western extremity of Atka Island, in which commercial fishing for salmon originating in the rivers of Canada and the United States of America is being or can be prosecuted.

2. With regard to the stocks of fish and the waters named below, Canada and Japan agree to abstain from fishing, and the United States of America agrees to continue to carry out necessary conservation measures, in accordance with the provisions of Article V, Section 2 of this Convention:

Salmon (*Oncorhynchus gorbusha*, *Oncorhynchus keta*, *Oncorhynchus kitsutch*, *Oncorhynchus nerka* and *Oncorhynchus tshawytscha*). The Convention area of the Behring Sea east of the line starting from Cape Prince of Wales on the west coast of Alaska, running westward to 168° 58' 22.59" West Longitude; thence due south to a point 65° 15' 00" North Latitude; thence along the great circle course which passes through 51° North Latitude and 167° East Longitude, to its intersection with meridian 175° West Longitude; thence south along a provisional line which follows this meridian to the territorial waters limit of Atka Island; in which commercial fishing for salmon originating in the rivers of the United States of America is being or can be prosecuted.

#### PROTOCOL TO THE PROPOSED INTERNATIONAL CONVENTION FOR THE HIGH SEAS FISHERIES OF THE NORTH PACIFIC OCEAN

The Governments of Canada, Japan and the United States of America, through their respective Plenipotentiaries, agree upon the following stipulation in regard to the International Convention for the High Seas Fisheries of the North Pacific Ocean, signed at Tokyo on this.....day of....., nineteen hundred fifty.....

The Governments of Canada, Japan and the United States of America agree that the line of meridian 175° West Longitude and the line following the meridian passing through the western extremity of Atka Island, which have been adopted for determining the areas in which the exploitation of salmon is abstained or the conservation measures for salmon continue to be enforced in accordance with the provisions of the Annex to this Convention, shall be considered as provisional lines which shall continue in effect subject to confirmation or readjustment in accordance with the procedure mentioned below.

The Commission to be established under the Convention shall, as expeditiously as practicable, investigate the waters of the Convention area to determine if there are areas in which salmon originating in the rivers of Canada and of the United States of America intermingle with salmon originating in the rivers of Asia. If such areas are found the Commission shall conduct suitable studies to determine a line or lines which best divide salmon of Asiatic origin and salmon of Canadian and United States of America origin, from which certain Contracting Parties have agreed to abstain in accordance with the provisions of Article IV, and whether it can be shown beyond a reasonable doubt that this line or lines more equitably divide such salmon than the

provisional lines specified in sections 1 (c) and 2 of the Annex. In accordance with these determinations the Commission shall recommend that such provisional lines be confirmed or that they be changed in accordance with these results, giving due consideration to adjustments required to simplify administration.

In the event, however, the Commission fails within a reasonable period of time to recommend unanimously such line or lines, it is agreed that the matter shall be referred to a special committee of scientists consisting of three competent and disinterested persons, no one of whom shall be a national of a Contracting Party, selected by mutual agreement of all Parties for the determination of this matter.

It is further agreed that when a determination has been made by a majority of such special committee, the Commission shall make a recommendation in accordance therewith.

The Governments of Canada, Japan and the United States of America, in signing this Protocol, desire to make it clear that the procedure set forth herein is designed to cover a special situation. It is not, therefore, to be considered a precedent for the final resolution of any matters which may, in the future, come before the Commission.

This protocol shall become effective from the date of entry into force of the said Convention.

In Witness Whereof, the respective Plenipotentiaries have signed this Protocol.

Done in triplicate at Tokyo this.....day  
of ..... one thousand nine hundred fifty.....

CANADA:

JAPAN:

UNITED STATES OF AMERICA:

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ALABAMA

STATE OF

IN THE

HOUSE OF COMMONS

Sixth Session—Twenty-first Parliament, 1952

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STANDING COMMITTEE

ON

# MARINE AND FISHERIES

*Chairman:* T. G. W. ASHBOURNE, Esq.

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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 2

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TUESDAY, MAY 27, 1952

WEDNESDAY, MAY 28, 1952

THURSDAY, MAY 29, 1952

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Draft International Convention for the High Seas Fisheries of the  
North Pacific Ocean.

WITNESSES:

Mr. Stewart Bates, Deputy Minister of Fisheries; Mr. K. Fraser, Fisheries Association of British Columbia; Mr. C. G. O'Brien, Manager, Fisheries Council of Canada; Mr. Homer Stevens, United Fishermen and Allied Workers' Union.

ORDERS OF REFERENCE

MONDAY, May 26, 1952.

*Ordered*,—That the name of Mr. Goode be substituted for that of Mr. Harrison on the said Committee.

THURSDAY, May 29, 1952.

*Ordered*,—That the name of Mr. Bryce be substituted for that of Mr. Herridge on the said Committee.

Attest.

LEON J. RAYMOND,  
*Clerk of the House.*



## MINUTES OF PROCEEDINGS

TUESDAY, May 27, 1952.

The Standing Committee on Marine and Fisheries met at 11.00 o'clock a.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs. Applewhaite, Ashbourne, Balcom, Blackmore, Blair, Cannon, Catherwood, Fulford, Gibson, Gillis, Goode, Herridge, Kirk (*Antigonish-Guysborough*), Macdonald (*Edmonton East*), MacLean (*Queens, P.E.I.*), MacNaught, McLean (*Huron-Perth*), McLure, Mott, Parkes and Wood.

*In attendance:* Hon. R. W. Mayhew, Minister of Fisheries; Mr. Stewart Bates, Deputy Minister of Fisheries; Mr. K. Fraser of Vancouver, accredited delegate of the Fisheries Association of British Columbia; Mr. C. G. O'Brien, manager of the Fisheries Council of Canada.

The Chairman presented the *Second Report* of the Sub-Committee on Agenda and Procedure, which was read by the Clerk of the Committee, as follows:

Your Sub-Committee on Agenda and Procedure met on May 19 and May 26, 1952, and has agreed to present the following as its *Second Report*:

Your Sub-Committee has considered, amongst other matters of a routine nature, communications received to date as follows:

1. Under date of May 14, from the Deputy Minister of Fisheries, concerning a map requested on May 8 by the Chairman (*see page 37 of Evidence for request*) and also providing data on crab fishing requested on May 8 by Mr. Applewhaite (*see pages 42-43 of Evidence for request*);

2. Under date of May 10, from the Deep Sea Fishermen's Union of Prince Rupert, informing the Committee that neither a brief nor a representative would be forthcoming;

3. Under date of May 12 and May 21, from the United Fishermen and Allied Workers' Union of Vancouver, opposing ratification of the treaty; proposing, amongst other things, that the Committee provide financial assistance to fishery organizations interested in making oral representations, suggesting that such assistance would encourage larger delegations to appear before the Committee; and indicating that Mr. Homer Stevens would be in attendance as representative of the United Fishermen and Allied Workers' Union;

4. Memoranda of telephone conversations on May 19 and May 23 between Mr. C. G. O'Brien, Manager of the Fisheries Council of Canada, and the Clerk of the Committee informing the Committee as follows: That Mr. K. Fraser would be in attendance as representative of the Fisheries Association of British Columbia; that the Fisheries Council of Canada had nothing further to add to its resolution submitted to the Committee on May 6 (*see page 30 of Evidence*); and that the other two British Columbia member organizations of the Council (Wholesale Fish Dealers' Associations in Vancouver and Prince Rupert) would not be making any representations.

Your Sub-Committee has agreed to recommend thereon as follows:

1. That the map and crab fishing data from the Department of Fisheries be incorporated in the next issue of the Evidence. (*See today's evidence*)

2. That no financial assistance be provided in respect of travel and living expenses of fishery organizations' delegates making representations before the Committee.

3. That a copy of all advance briefs be circulated to the members of the Committee by the Clerk prior to the meeting at which they are to be considered and as soon as possible after receipt.

4. That all briefs received, but excluding ordinary correspondence, be printed as appendices to the Minutes of Proceedings and Evidence.

5. That Mr. K. Fraser, delegate of the Fisheries Association of British Columbia of Vancouver, B.C., be heard by the Committee at 11.00 o'clock a.m., Tuesday, May 27, 1952.

6. That Mr. Homer Stevens, delegate of the United Fishermen and Allied Workers' Union of Vancouver, B.C., be heard by the Committee at 4.00 o'clock p.m., Wednesday, May 28, 1952.

All of which is respectfully submitted.

T. G. W. ASHBOURNE,  
*Chairman.*

On motion of Mr. Balcom,

*Resolved*,—That the *Second Report* of the Sub-Committee on Agenda and Procedure be now concurred in.

Mr. Mayhew addressed the Committee, giving a statement on the treaty.

Mr. Fraser was called, heard and questioned by Members of the Committee on the statement, presented on behalf of the Fisheries Association of British Columbia, recommending ratification of the Tripartite Fisheries Treaty.

The witness retired.

Mr. O'Brien was recalled, heard and questioned.

The witness retired.

Mr. Bates was recalled for further questioning.

The witness retired.

At 12.05 o'clock p.m., the Committee adjourned until Wednesday, May 28, at 4.00 o'clock p.m.

WEDNESDAY, May 28, 1952.

The Standing Committee on Marine and Fisheries met at 4.00 o'clock p.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs. Applewhaite, Ashbourne, Balcom, Blair, Catherwood, Gibson, Gillis, Goode, Henderson, Herridge, Kirk (*Antigonish-Guysborough*), Macdonald (*Edmonton East*), MacLean (*Queens, P.E.I.*), MacNaught, McLean (*Huron-Perth*), McLure, Mott, Pearkes, Stick and Thomas.

*In attendance:* Mr. Homer Stevens, of Vancouver, accredited delegate of the United Fishermen and Allied Workers' Union; Mr. K. Fraser, of Vancouver, accredited delegate of the Fisheries Association of British Columbia.

Mr. Stevens was called and proceeded to present a brief, submitted on behalf of the United Fishermen and Allied Workers' Union, opposing ratification of the Tripartite Fisheries Treaty.

A point of order was raised by Mr. Applewhaite that the brief contained disparaging allusions to a speech made in the other House.

Following discussion thereon, the Chairman ruled that the point of order was well taken and it was ordered that all references to a speech made in the other House appearing in the brief be excluded from the evidence.

Mr. Stevens resumed with the presentation of the brief and, having been heard, was questioned thereon.

The witness retired.

Mr. Fraser was recalled and provided the Committee with certain information requested at the previous meeting.

The witness retired.

The Committee agreed that Mr. Bates and Mr. Stevens be recalled for the next meeting to give further evidence and to be further questioned.

At 5.55 o'clock p.m., the Committee adjourned until Thursday, May 29, at 11.00 o'clock a.m.

THURSDAY, May 29, 1952.

The Standing Committee on Marine and Fisheries met at 11.00 o'clock a.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs. Applewhaite, Ashbourne, Balcom, Blackmore, Blair, Catherwood, Fulford, Gibson, Gillis, James, Kirk (*Antigonish-Guysborough*), Macdonald (*Edmonton East*), MacNaught, McLure, Mott, Pearkes and Stuart (*Charlotte*).

*In attendance:* Mr. Stewart Bates, Deputy Minister of Fisheries; Mr. Homer Stevens, of Vancouver, accredited delegate of the United Fishermen and Allied Workers' Union; Mr. C. G. O'Brien, Manager of the Fisheries Council of Canada.

Mr. Stevens was recalled, gave further evidence, and was questioned thereon.

The witness retired.

The Chairman informed the Committee that the Vancouver and Prince Rupert Fishermen's Co-operative Associations have submitted a joint brief, dated May 26, listing objections to the proposed treaty; and that a nightletter has been received from the said Co-operatives endorsing the brief of the United Fishermen and Allied Workers' Union.

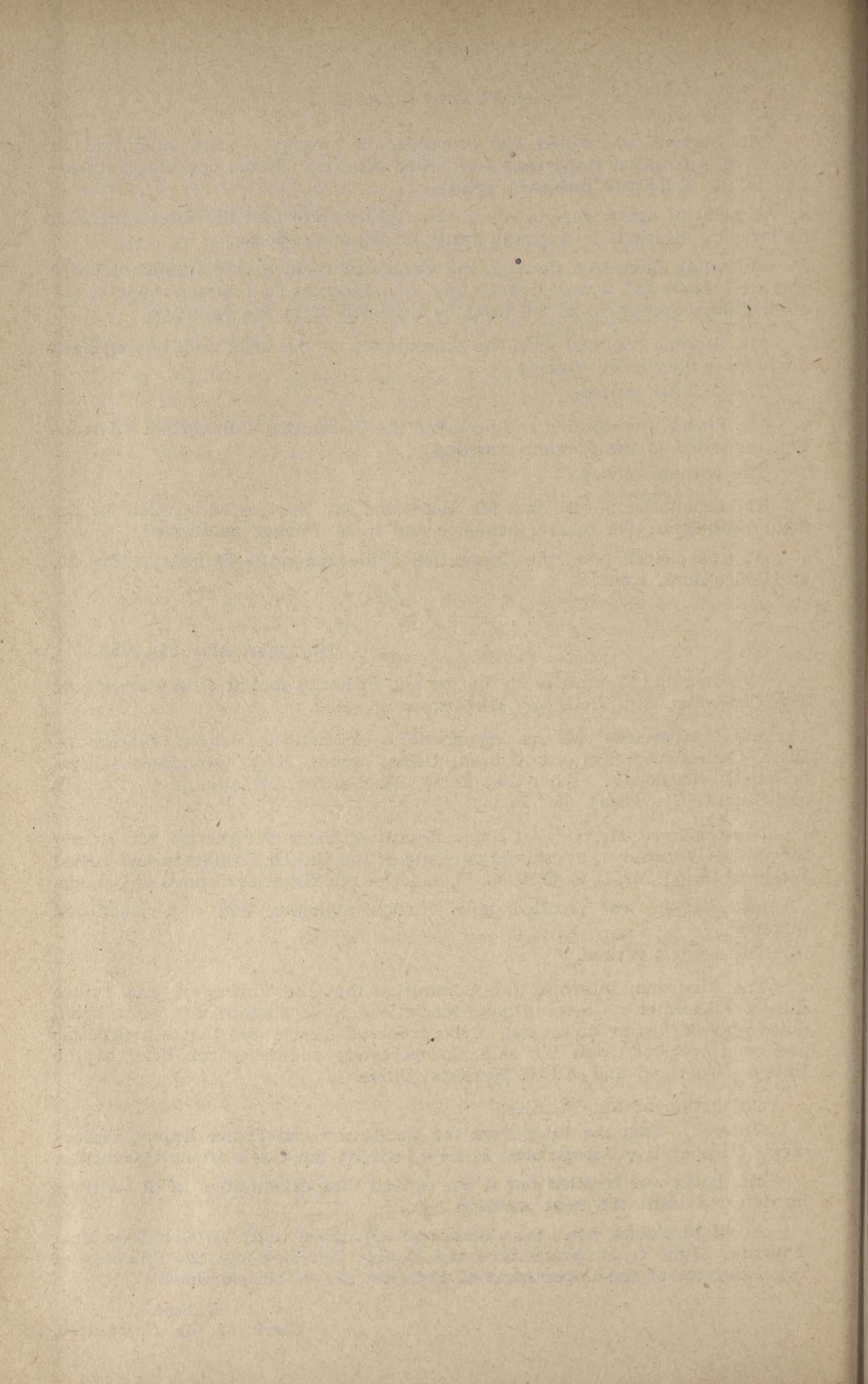
On motion of Mr. Pearkes,

*Ordered,*—That the brief from the Vancouver and Prince Rupert Fishermen's Co-operative Associations be now read by the Clerk of the Committee.

Mr. Bates was recalled but it was agreed that examination of the witness be deferred until the next meeting.

At 12:15 o'clock p.m., the Committee adjourned until 11:00 o'clock a.m., Thursday, June 5, at which time the Deputy Minister and the Director of Legal Service of the Department of Fisheries are to be examined.

A. Small,  
Clerk of the Committee.



## EVIDENCE

MAY 27, 1952,  
11.00 a.m.

The CHAIRMAN: Order, gentlemen. We have a quorum.

The members of the committee will see that maps have been distributed and they are on the table for you.

I want to say that we welcome here this morning Mr. Tom Goode, who has been appointed to this committee in place of Mr. Harrison. We are very sorry that Mr. Harrison could not continue on the committee.

Mr. GOODE: In reply, Mr. Chairman, may I say that I speak for Mr. Harrison in expressing his regret at not being able to continue on the committee. May I say also that I am very interested in this committee and that I will do everything I can to co-operate with you, sir.

The CHAIRMAN: I have the honour of presenting the second report of the subcommittee and I will ask the clerk to read it. (*See today's Minutes of Proceedings*).

I would suggest that Mr. Bates' letter referred to the subcommittee's Report and the data supplied by him be inserted in the Evidence at this point.

DEPUTY MINISTER OF FISHERIES

OTTAWA, May 14, 1952.

Dear Sir,

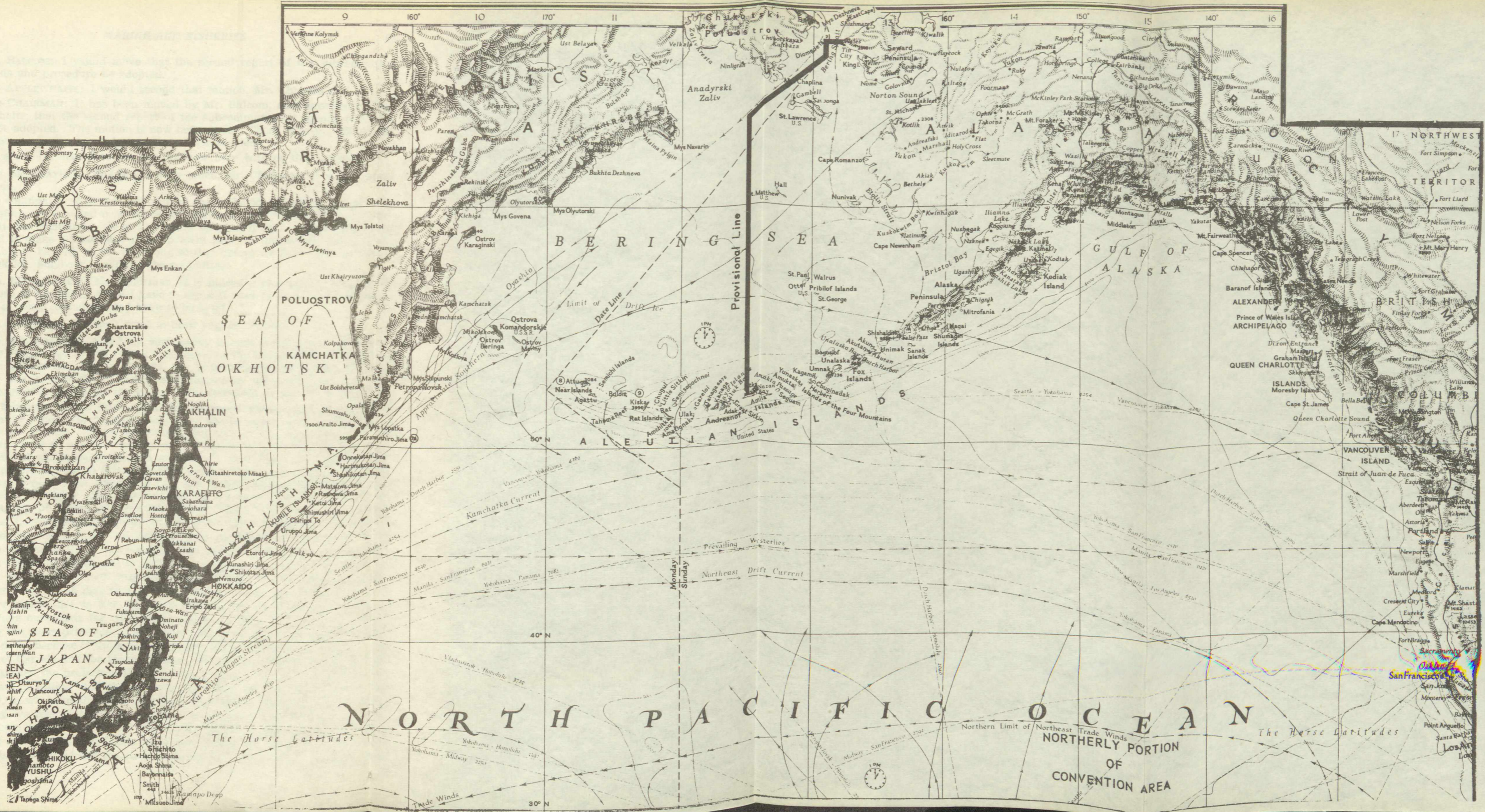
I have your letter of May 12 relative to certain information requested by the Standing Committee on Marine and Fisheries.

A map of the Pacific area is being obtained and sufficient copies should be available within the next week. As soon as we have them I shall forward them to you for distribution to members of the Committee.

With regard to information concerning the crab production in British Columbia, the total catch in 1951 amounted to 1,811,000 lbs. Of this total 778,700 lbs. were produced in the Dixon Entrance and Hecate straits areas. We have no means of determining what proportion of this amount was taken beyond the three-mile limit of the Canadian shorelines, but probably most of it was obtained in offshore waters. According to our statistical records the balance of the production (1,032,300 lbs.) was produced in areas within Canadian territorial limits of the southern part of the province.

Yours very truly,  
Sgd. Stewart Bates,  
*Deputy Minister.*

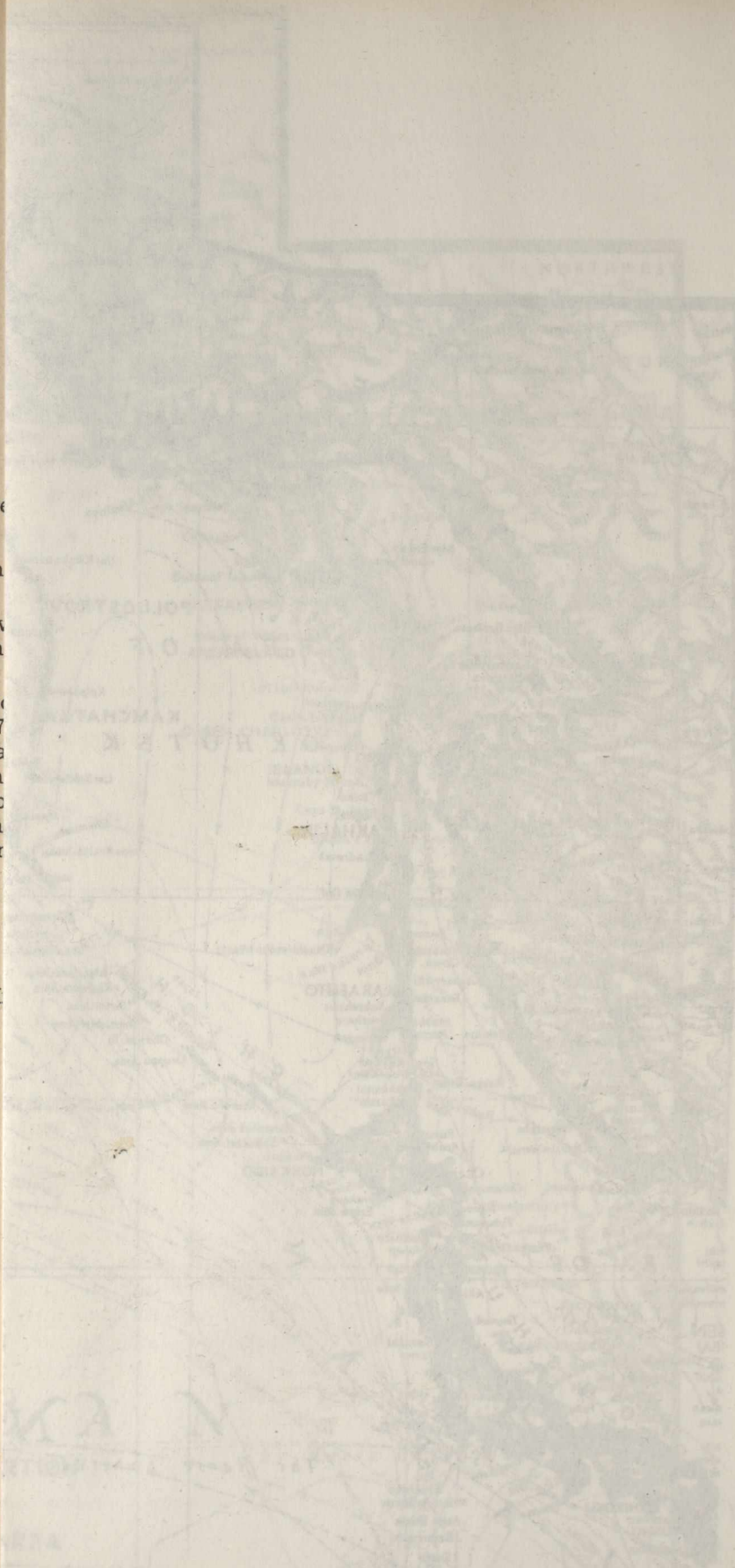
Mr. A. Small,  
Clerk of the Standing Committee  
on Marine & Fisheries,  
House of Commons,  
Ottawa.



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Mr. BALCOM: I would move that the second report of the subcommittee an agenda and procedure be adopted.

Mr. APPLEWHAITE: I would second that motion, Mr. Chairman.

The CHAIRMAN: It has been moved by Mr. Balcom, and seconded by Mr. Applewhaite, that the second report of the subcommittee on agenda and procedure be adopted. The motion is now before you. Those in favour please say aye, those opposed, nay. I declare the motion carried.

We are very pleased to see Mr. Mayhew here with us this morning.

Hon. Mr. MAYHEW: Thank you very much, Mr. Chairman, it is a pleasure to be here.

The CHAIRMAN: Will you come up to the table, Mr. Mayhew, please? As I said before, we are glad to welcome Mr. Mayhew here this morning and I am sure that the committee, all of us, would be glad if Mr. Mayhew would be prepared to make a statement at the present time. I understand that he will not be able to be with us for very long so that before we hear other witnesses I will ask Mr. Mayhew to address the committee.

Hon. Mr. MAYHEW: Mr. Chairman, it is indeed a pleasure to be asked to say a word at this time. What I have to say will have to be a short statement; because of other commitments I have to be brief.

The CHAIRMAN: We don't want to limit you, sir, at all.

Hon. Mr. MAYHEW: And I am very happy to have a committee like this to turn this treaty over to. We think the treaty, or the tripartite agreement that has been arrived at between Canada, the United States and Japan, is a fair one, and that it is worthy of careful examination by this committee, and I am equally sure that it will get the very careful examination that it deserves.

We think—at least I think—it is an agreement which, while the terms of it are for 10 years, will continue long after the 10 years are over because it is based on fairness. There is nothing punitive in the agreement, as one might expect when you are dealing with a nation with which we have been at war and at whose hands Canada in common with other countries has suffered considerably; but in this agreement we feel there was no reason why we should try to perpetuate something that was unjust, because there have been unjustnesses on either side. We felt that in an agreement of this kind we are asking for protection of a vested interest which we have in our salmon, and in our herring and in our halibut and if we had not had years of conservation and of management on these species of fish they would not be in existence today. If we do not continue that process of management and conservation they will disappear; so that as long as we are conserving them, we feel that we have a vested interest in these species of fish along our coast line. And because of that it was only right and only fair to ask Japan to waive her rights, not to her high seas fishing, but to waive her rights to fishing along our coasts for these three species of fish. If we were asked to recognize the same principle in any other country I think we would be prepared to do it, because if these fish are anybody's property at all, they are the property of Canada and the United States. We obtained something as a result; we have gained the protection that we have in this treaty. It would take but a few years of fishing with the methods that Japan or any other country can use today, to wipe out the stock of salmon and halibut along our coast. With this treaty we feel that we can continue to preserve these fish not only for ourselves but as a food bank for the world, and the world will be needing it more and more as its population increases. They will need more and more the food bank that we can maintain by preserving these species of fish. And

I think, as you study this treaty, you will feel that it does not really put any hardship on anybody. We have gained what we were trying to do from the start, the protection and the preservation along our shores of these species of fish.

I do not want to go into details further about it. Of course, you have had the evidence given to you by Mr. Bates. I read it over two or three times since it was printed; and, as I always am, I was proud of Mr. Bates in presenting the case to you here; and we have a right to be proud of our Deputy Minister of Fisheries, as I am.

I was proud of the whole delegation that went to Japan in connection with the treaty.

So far as we are concerned it has not been just something that has been with us for a matter of two or three months, it is not well over a year since we first started an intensive study of what was required, but our thinking of it has gone back to the time I joined the Department of Fisheries. And I would be disappointed indeed if anyone could find any real cause why Canada should not freely join, and be glad to join any report to parliament recommending that the government of Canada ratify this treaty.

Now, I do not intend to attend your meetings, but I will be on hand at any time if I am needed while this matter is under discussion. Thank you very much, Mr. Chairman.

The CHAIRMAN: Thank you very much, Mr. Mayhew for this statement on the treaty. On behalf of the committee, I would like to express our thanks and our appreciation for the hard work which has gone into this treaty by the Canadian delegation of which you were the chairman, and we feel that the many hours of hard work in getting this treaty to its present shape and having it negotiated in Tokyo last December was the result of your efforts as well as the efforts of Mr. Bates and the other officials who have been working so long on this matter. Personally I would like to say that, in my opinion, the matter of conservation cannot be over-stressed, and as we go along in consideration of the treaty, if occasion should arise, we will be very glad to get in touch with you to help us out.

Now, we have with us this morning Mr. K. Fraser, representing the Fisheries Association of British Columbia, Vancouver, B.C. The statement, or brief which Mr. Fraser has sent, has been distributed to the members of the committee and I will now welcome Mr. Fraser and ask him to come forward for hearing and questioning by the committee. Mr. K. Fraser, please.

**Mr. K. Fraser, representing Fisheries Association of British Columbia, Vancouver, B.C., called:**

The WITNESS: Mr. Chairman, and honourable members of the committee: I am appearing before you on behalf of the Fisheries Association of British Columbia, which includes within its membership processors accounting for the great bulk of the fish processed in that province. In addition to processing, many of our member companies are engaged in the catching of fish, owning their own fishing vessels. The membership of this association comprises the following firms:

- A.B.C. Packing Company Ltd., Vancouver, B.C.
- British Columbia Packers Ltd., Vancouver, B.C.
- Canadian Fishing Company Ltd., Vancouver, B.C.
- Cassiar Packing Company Ltd., Vancouver, B.C.
- Colonial Packers Ltd., Vancouver, B.C.
- Great West Packing Co. Ltd., Steveston, B.C.
- Francis Millerd & Co. Ltd., Vancouver, B.C.
- Johnston Fishing & Packing Co. Ltd., New Westminster, B.C.

National Fisheries Ltd., Vancouver, B.C.  
 Nelson Brothers Fisheries Ltd., Vancouver, B.C.  
 North Shore Packing Co. Ltd., North Vancouver, B.C.  
 Queen Charlotte Fisheries Ltd., Vancouver, B.C.  
 J. H. Todd & Sons Ltd., Victoria, B.C.  
 Westminster Cannery Ltd., New Westminster, B.C.

The Fisheries Association of British Columbia is one of the member associations of the Fisheries Council of Canada. You have received a submission from the fisheries council arising out of a resolution passed at its recent annual meeting in Vancouver. My presence here today is for the purpose of giving emphasis to that resolution, which approved of the fishing treaty under discussion, without qualification, and which recommended its ratification by parliament.

The Fisheries Association of British Columbia believes this to be a worthwhile treaty because:

- It is based on sound conservation principles.
- It establishes a precedent of international co-operation in fisheries.
- It is a workable treaty, freely accepted.
- It safeguards our basic raw material and makes possible the proper management and protection of other species important to our fishery.
- It does not prejudice our claims with respect to territorial waters.

In short, we believe this treaty to be a step in the right direction and support the resolution placed before you by the Fisheries Council of Canada approving of it, without qualification, and recommending its ratification by Parliament. Thank you.

The CHAIRMAN: Thank you very much, Mr. Fraser for your submission. Are there any members of the committee who would like to question Mr. Fraser?

*By Mr. Applewhaite:*

Q. I would like to ask Mr. Fraser, if I may, one question. I take it that this list of members which he has read to us gives us their head office addresses—they are situated in the Vancouver-New Westminster-Victoria area, which is the extreme south end of the province. I wonder if Mr. Fraser would please indicate to the committee, and for the record, those members of his association who have a substantial interest farther north than that area—say particularly around the north end of Vancouver Island, around the Prince Rupert area and the Queen Charlotte area?—A. Are you referring to, for instance, the Fisheries Association plants?

Q. What I want to do is to make sure for the record that you are not speaking only for a small group in the area around Vancouver and Victoria. I would like to get on the record, and I do not want to tell you what I want you to say, what companies in your membership have substantial fishing interests other than in the immediate locality of Vancouver and Victoria?—A. Well, the larger companies referred to in this submission: the A. B. C. Packing Company, British Columbia Packers Limited, Canadian Fish Company Limited, Nelson Bros. Ltd., J. H. Todd, Francis Millerd and Company Limited, all have operations extending from Vancouver all the way along the coast line of British Columbia up to and including the Prince Rupert district. One of British Columbia's largest plants is in the Rupert district. Does that answer the question?

*By Mr. Goode:*

Q. Mr. Fraser enumerated a number of companies which his association represents and as I put them down the figure is 14. What percentage of the

total operators in British Columbia does this association represent?—A. This list of operators represents 100 per cent of the canners of British Columbia.

Q. Then we can say and take it for granted, and I am a new member on the committee, that you represent all the producers in British Columbia?

*By Mr. Gibson:*

Q. That would not include the co-operatives?—A. No, it does not include the co-operative organizations.

Q. So, actually, you do not speak for 100 per cent of the pack?—A. 100 per cent of the members of the association, not 100 per cent of the fish processors.

*By Mr. Goode:*

Q. What percentage of the fish processed would you represent, or would your association represent, Mr. Fraser?—A. That is a question I would like to spend some time on and get an actual figure.

Q. Could we have that figure before Mr. Fraser leaves, perhaps tomorrow?—A. Yes.

The CHAIRMAN: You will be available tomorrow, Mr. Fraser?

The WITNESS: That is correct.

Mr. GOODE: As Mr. Fraser knows, what I am trying to develop is the representation that he has among the interested parties in British Columbia. Perhaps you can tell me what percentage of the pack on the Fraser river you represent—in regard to the brief you gave this morning? That will localize it a little.

The WITNESS: I would say upwards of 90 per cent.

*By Mr. Gibson:*

Q. Would it be fair to say that you represent 75 per cent of all the fish processed in British Columbia?—A. I should think that would be a minimum.

Q. I would think so too.—A. But I would like to give some thought to it and get some more accurate information so that it will not be misleading to the committee.

Mr. GOODE: Is this 90 per cent figure you gave fairly accurate—it is the area you come from and you know it well?

The WITNESS: Yes.

The CHAIRMAN: Are there any other questions?

*By Mr. Gibson:*

Q. Mr. Fraser, there has been a suggestion by representatives of the United Fishermen and Allied Workers' Union that it is possible that in an organization such as yours you probably have international fishing and monetary connections. By virtue of that fact, it has been suggested that it is just possible that you would not be so concerned with the Canadian aspect of this treaty as the fishermen themselves are. Do you think there is any validity at all in that statement?—A. Emphatically no. That is not correct at all.

As far as we are concerned, I am speaking now of the association, the Fisheries Association of British Columbia, our interests and those of the fishermen are identical in that we both are interested in protecting the raw material. As far as the interests of the companies I am representing today are concerned they have, if anything, the greatest interest. They have interest in the fish, equipment, and boats. We own large plants which are not mobile.

Q. In Canada, that is?—A. In Canada. We have a large interest in advancing the fishermen. If anything our interest in this whole treaty is greater than that of the fishermen. We are at a loss to understand why their views are completely opposite to ours on this treaty.

Mr. GIBSON: Mr. Chairman, have the co-operatives of British Columbia indicated that they wish to make a presentation to the committee?

The CHAIRMAN: No, Mr. Gibson. They were notified but there was no reply from them.

Mr. GIBSON: Which would indicate then that they are satisfied—as far as the co-operatives are concerned you would assume that?

The CHAIRMAN: In reply to Mr. Gibson, I think that is a matter for the committee to come to some decision on. I could not say definitely and I would not like to take upon myself the responsibility of saying that they were; but at any rate there is no reply from the Prince Rupert Fishermen's Co-operative Association, nor from the Fishermen's Co-operative Association, nor from the Native Brotherhood of British Columbia, nor from the Canadian Fishing Vessels Owners Association.

Letters were sent to ten organizations regarding representations and, with the exception of those now named, replies came. The Vancouver Wholesale Fish Dealers Association, and the Prince Rupert Wholesale Fish Dealers Association were members of the Fishery Council of Canada and there were no representations to be made by them.

Mr. GIBSON: Thank you.

*By Mr. Mott:*

Q. Mr. Chairman, I would like to ask Mr. Fraser a question. Perhaps he is not in a position to answer it and if so that is quite all right. It has been mentioned here previously, during our discussions, that American interest—perhaps the word should be “control”—the three large cannery operations in Canada on the Pacific coast. That was mentioned at some meetings I attended on the coast. Can you say anything on that?—A. To the best of my knowledge that statement is incorrect.

Q. How much of your pack that you know of goes to the United States? Take last year's pack or for the last four or five years?—A. I think I would estimate around 36 per cent.

The CHAIRMAN: Are there any other amounts exported, Mr. Fraser? Any other amounts of your products?

The WITNESS: Well, we have in the past enjoyed an overseas market but we are all familiar with what has developed in those markets at this time. The United States at the present time represents our biggest export market.

Mr. BALCOM: Is that export to the United States increasing?

The WITNESS: It appears to be, yes—on certain species and lines of fish.

*By Mr. Herridge:*

Q. Mr. Fraser, would you say the Fisheries Association of British Columbia as represented by you this morning generally support the conservation policy designed by the Department of Fisheries, and co-operate in that respect?—A. Definitely.

Q. What would be the attitude of co-operatives towards the policies of the department? I am not speaking of the treaty but I am speaking of the conservation policies?—A. I would prefer them to answer that question.

*By Mr. Pearkes:*

Q. Mr. Fraser, can you say whether any of the fish caught by the vessels of the companies you represent are delivered to canneries in the United States, or are they delivered to canneries in Canada?—A. All the fish caught by the fishing organization in British Columbia are delivered to British Columbia ports—with the exclusion of tuna and in some instances halibut.

Q. Salmon?—A. Salmon in our area—it is possible as we have servicing craft that pick-up off the grounds that there have been some deliveries to the canneries in Puget Sound.

Q. Service craft?—A. Yes, collectors.

Q. What percentage of that would be taken to the American canneries?—

A. That question would be very difficult to answer.

Q. Fifty per cent?—A. Oh, no.

Mr. APPLEWHAITE: If I may interrupt for a moment, I would not like the record to stop as inconclusively as it did on Mr. Herridge's question. It would perhaps create a false impression. I think I should in fairness state that my experience, over many years, has been that the co-operatives in British Columbia whole-heartedly and genuinely support the conservation programs that have been put in. I hope you do not mind me saying that but I do not want the record to indicate that there was perhaps an assumption that they did not.

Mr. PEARKES: If that statement is to go on the record I think perhaps I should add that the fishermen and the unions also co-operate—and not let it rest merely at the co-operatives.

Mr. APPLEWHAITE: That is correct.

*By Mr. Goode:*

Q. In regard to Mr. Mott's question, as you remember he tried to develop the fact that the United States interests controlled, or had an interest in some of the packing companies. Are there any packing companies you know of that are totally controlled by United States interests?—A. No.

Q. Let us go into the 36 per cent of the pack that goes to the United States. How has that 36 per cent of your pack been developed in that market? Is it money spent by the department? Is it money that has been spent through co-operation of the department and the packing companies, or have the packing companies developed the market themselves? If you can tell me, how much money has been spent in that market to develop that 36 per cent?—A. The development of the U.S. market has been of a joint nature—the industry and the department have participated in developing that particular market. The type of fish exported is our frozen fish in the forms of frozen head-off, and also our fillet production. On the other question you ask I have not got information.

Q. It would be fair to say that this 36 per cent has not just come to the producers? Either the department by itself, or in co-operation with the producers, has gone out and got that market. It has not just come to them. Has there been money spent in large quantities to get that United States market or have they just come and bought fish?—A. The Canadian government has spent some money in introducing the product and the industry too, in turn, has improved their processing and their merchandise which has made it attractive to that particular market.

Q. To come to another point, how many men, and this is perhaps not in the proper phraseology, but as far as wages and salaries paid by the association are concerned, how many men do you employ entirely outside of the fishing?—A. I do not know an accurate figure to give you but it is somewhere in the neighbourhood of 10,000.

Q. Would that include the active fishermen?—A. No, it would include those people associated with the processing—collectors, tenders, plant crews, etc.

Q. How many fish for your association—that is men who own their own boats?—A. That is a figure I would like to give you tomorrow.

Q. Could I have that tomorrow?

The CHAIRMAN: That will be satisfactory.

*By Mr. Goode:*

Q. I would also like to know, if you can get it for me, the total wage roll in round figures paid by the association per annum, and the amount of money paid to the fishermen fishing both in territorial waters and outside Canadian waters—on an annual basis?—A. You want the total moneys paid to inshore fishermen and off-shore fishermen?

Q. Yes, and the moneys paid to direct employees of the association—cannery employees etc.—the 10,000 figure that you gave?

The CHAIRMAN: Are there any further questions that members of the committee wish to address to Mr. Fraser?

Very well, thank you Mr. Fraser and we will be glad to see you again tomorrow.

I would like to say that Mr. Stewart Bates, deputy minister of the department is here in case any member of the committee would like to address any questions to him. Also we have with us Mr. C. G. O'Brien who would like to address the committee on behalf of the Fisheries Council of Canada. We have already welcomed Mr. O'Brien and had a statement from him at our first meeting. It was rather rushed at that time because he came on just before adjournment time at one o'clock.

We are glad to have Mr. O'Brien here now and I would ask him to come and make his statement to the committee after which if there are any questions you would like to address to him no doubt Mr. O'Brien will be glad to answer.

**Mr. C. J. O'Brien, Fisheries Council of Canada, called:**

The WITNESS: Mr. Chairman and gentlemen:

Since you are not, at least as a committee, pressed for time this morning, I should like to take this opportunity of correcting an impression which the report of your meeting on May 6 may have conveyed to you.

On page 30 of that report I am quoted, incorrectly, as having said: "I may say that the treaty has been the cause of some concern, but we are now of the opinion that the type of that agreement will work out to the advantage of all concerned."

What I did say was that the Fisheries Council of Canada regarded this treaty as one meriting the attention of the fishing industry on a national basis. Since it embodied new principles, the fishing industry wished to assure itself that those principles were of a type which could not be used to Canada's detriment in any future fisheries agreements.

However, at no time has the fishing industry, as represented by the Fisheries Council of Canada, been "concerned" about the terms of this agreement, in the sense that the word "concerned" might be interpreted as meaning "worried". We have supported it consistently and the views placed before you on May 6 were those which we have held from the beginning and are views which, after perusing the text of Mr. Bates' address to you, we hold now with added conviction. Thank you.

*By Mr. Pearkes:*

Q. Would that apply to the attitude of Mr. Buchanan before he left to go overseas—to say at no time were the Fisheries Council concerned—was he representing the Fisheries Council at that time?—A. At all times since the department has released information with respect to the progress of the negotiations and details with respect to what was planned for the treaty, the Fisheries Council has received that information and has kept its member associations advised and at no time during that period in the last year have there been any objections come from any of the member associations of the council to the proposed terms of the agreement.

Q. Do you mean by that that only since the agreement was signed in Tokyo? Some information surely was given to the council before the agreement was signed at Tokyo—a draft of the agreement was promulgated before the members of the Canadian delegation sailed for Tokyo?—A. Yes, sir. Perhaps I did not make it quite clear that we did receive at all times any information which was available to public bodies and at no time were we dissatisfied or worried about what the department proposed doing in terms of that agreement on behalf of Canada.

Q. Was Mr. Buchanan representing the council before the delegation left for Tokyo?—A. I think perhaps Mr. Bates could answer that question better than I could.

Mr. STEWART BATES (*Deputy Minister of Fisheries*): I think, sir, he was named in the order in council as an industrial adviser to the delegation.

Mr. PEARKES: By the council?

Mr. BATES: By the order in council appointing the delegation he was named as an industrial adviser to the delegation.

Mr. PEARKES: Is he a member of the Fisheries Council of Canada?

Mr. BATES: Yes, but in the order in council of the federal government appointing the delegation he was named as an industrial adviser to the delegation.

Mr. PEARKES: You were also a member of that delegation?

Mr. BATES: Yes.

Mr. PEARKES: Do you recall any statement made by Mr. Buchanan expressing any fears or concern about the agreement before he left for Tokyo?

Mr. BATES: No, sir. Before the delegation left for Tokyo there were many discussions with the whole industry, not only the Fisheries Council but the whole group which comprised also the Co-operatives, the United Fishermen and Allied Workers Union, the Vessel Owners' Association, the Native Brotherhoods—the five groups representing industry met with us on more than one occasion. There were many views expressed. There were differences of opinion, some differences between them, differences within the groups. Some of these differences remain and, no doubt, the committee will hear some of them when representatives of some of these groups appear before you.

Mr. PEARKES: There was some publicity given to statements that Mr. Buchanan had made, rather radical changes in the opinion he held while en route to Tokyo. Before he left I understand he had expressed some considerable concern. I was asking you if you had any recollection of such things happening.

Mr. BATES: I think before Mr. Buchanan left his views were the same as ours.

Mr. PEARKES: His views?

Mr. BATES: His views were the same as ours.

Mr. GIBSON: He had an open mind, in other words?

Mr. BATES: Mr. Chairman, our minds were not open. They were not open in the sense that we were proceeding to Japan in vacuity. We had some definite Canadian purposes in mind that we wished to get achieved through the treaty. To that extent, our minds were not open. We were not ready to be buffeted about by all the winds of fortune. We had some purposes in mind and with these purposes Mr. Buchanan was in agreement.

Mr. GOODE: There was no difference in opinion between members of the delegation—that is what you mean?

Mr. BATES: Exactly.



*By Mr. Applewhaite:*

Q. Mr. Chairman, would Mr. O'Brien tell us what the Fisheries Council of Canada is composed of?—A. The Fisheries Council of Canada is composed of the 15 regional fisheries associations across Canada, a list of which is contained on page 29 of the committee report.

Q. It does not include co-operatives?—A. It does include co-operatives, but not all co-operatives in Canada.

Q. Is there on the Fisheries Council of Canada any representation directly from the Fisheries Department?—A. The Fisheries Council of Canada is a purely trade association.

Q. Then the answer will be no?—A. The answer is no.

Mr. GOODE: Mr. Chairman, I must apologize for asking so many questions this morning, but I hope you will bear with me inasmuch as I am a new member on this committee.

The CHAIRMAN: That is perfectly all right, Mr. Goode. We are glad to have your questions.

*By Mr. Goode:*

Q. During the questioning of Mr. O'Brien, he said in reply to a question from Mr. Pearkes that when the delegation left Canada the Fisheries Council were not worried. Does he mean that they were not worried as far as the outlook for industry is concerned or not worried as far as the outlook of the workers and fishermen were themselves concerned. Was this a Canadian outlook they took or a more or less restricted outlook as far as the industry was concerned?—A. Perhaps I could answer that by saying that in all matters with which the Fisheries Council of Canada has to deal, the national interest, which cannot ignore the interests of the fishermen, is at all times very much in mind. Therefore it was the broadest national interest that we had in mind.

Q. Speaking as a representative of the Fisheries Council—and I think this is a fair question—do you think this treaty is not only good on behalf of the industry, but good on behalf of the fishermen, too? I think I can ask that question because you gave an answer to the first one.—A. Definitely.

Q. Could I ask, Mr. Chairman, a question of Mr. Bates?

The CHAIRMAN: I think perhaps if we conclude the questioning of Mr. O'Brien it will be preferable, if that is agreeable.

Mr. APPLEWHAITE: I would like to ask Mr. O'Brien what co-operatives on the Pacific coast are members of the Fisheries Council?

The WITNESS: There are no co-operatives on the Pacific coast members of the Fisheries Council. The two large fishery co-operatives on the east coast are members through their membership in various of our member associations on the east coast.

*By Mr. Pearkes:*

Q. Have the co-operatives ever made application to be members of the Fisheries Council, that is, the co-operatives on the Pacific coast?—A. I believe that some years ago, before my association with the Fisheries Council, such application was considered. Nothing came of the negotiations between the two groups.

Q. It was not as recent as two years ago?—A. I believe, sir, it was a little longer ago than that. I have been with the Fisheries Council just 15 months and I believe that it was several years before that.

Q. You would not tell why the application was refused?—A. I would not be able to answer that question at this time, no.

The CHAIRMAN: I do not think he used the word "refused", did he?

The WITNESS: I beg your pardon?

The CHAIRMAN: I do not think you used the word "refused", did you?

Mr. PEARKES: No, it was I who used the word "refused".

Mr. GIBSON: Not consummated.

The WITNESS: There were negotiations which, I shall say, did not work out.

The CHAIRMAN: Any other questions?

Mr. HERRIDGE: Is there anything in the constitution of the Fisheries Council of Canada that would make it difficult for co-operative producers to be members?

The WITNESS: No, sir.

Mr. GOODE: In connection with this word "refused" that was used by Mr. Pearkes, is it that the co-operatives were refused to become a member of the Fisheries Council?

Mr. PEARKES: Could you speak a little louder, please? I cannot hear a word.

*By Mr. Goode:*

Q. Is it proper to use the word that Mr. Pearkes used, that they were refused admission to the Fisheries Council.—A. I think it would be preferable to say that the matter was discussed and the two bodies concerned could not come to a suitable agreement with respect to membership.

Q. So it was just a breakdown of negotiations, it was no refusal?—A. To my knowledge it was a breakdown of negotiations arising over facts which I am not sufficiently acquainted with, I must admit, to put in detail in the record.

Mr. APPLEWHAITE: But you have co-operative members on the Atlantic side?

The WITNESS: Yes, there are only two large co-operatives on the eastern coast, the United Maritime Fisheries and the Quebec United Fishermen, both of which are represented in our membership.

Mr. GIBSON: There is nothing in your constitution which would preclude a co-operative of British Columbia from belonging to the Fisheries Council, is there?

The WITNESS: No, sir.

Mr. MACLEAN (*Queens*): How long have the east coast co-operatives been members?

The WITNESS: From the inception of the council. You will appreciate that the council started operations in 1945. There was a period of time, perhaps a year or 15 months, that it took to contact all the associations across Canada, to negotiate and to bring about the organization which we now have of 15 regional associations, which comprise all the associations in Canada, that is fisheries associations, inland, west coast and east coast, with the exception of the co-operatives on the west coast, which are not included. The Fisheries Council, you will appreciate, has no direct membership of member companies, but is purely a council made up of regional associations.

The CHAIRMAN: I presume there are no other questions, gentlemen. Thank you very much, Mr. O'Brien.

**Mr. Stewart Bates, Deputy Minister of Fisheries, called:**

The CHAIRMAN: Mr. Goode, I think you had some questions to ask Mr. Bates.

*By Mr. Goode:*

Q. Mr. Bates, you said a while ago, during Mr. O'Brien's questioning, that there were discussions with the fishermen before you went to Tokyo. You also

intimated on the one side, as I take it, there was complete agreement as far as these negotiations with the fishermen were concerned. Did they ever agree that the treaty was a good one for the fishermen. Did they ever agree, the other bodies that you met with before you went to Tokyo, that this treaty would serve their purposes? Did the fishermen agree to certain parts of the treaty and disagree with other parts?—A. Well, sir, the problem of protection of fisheries on the high seas is quite a complex one; it involves many issues, some of which the committee has already seen—

Mr. GOODE: I do not want to interrupt, Mr. Chairman, but I cannot hear a thing.

The CHAIRMAN: Order, gentlemen.

The WITNESS: The consideration of this treaty was in itself a complex matter. We met the industry several times before the delegation left, and by industry I mean the group comprising the Fisheries Council of Canada, the United Fishermen and Allied Workers' Union, the Co-operatives, the Vessel Owners' Association, and the Native Brotherhoods. These five groups comprise industry from the department's point of view. We sat down with that group on several occasions between May of last year and September. The group had no single view as to the best kind of treaty. The fishermen in particular suggested right from the beginning that we should have a simple bilateral treaty with Japan, a treaty which would take the form of each agreeing to stay off the other one's coasts. I have already indicated to this parliamentary committee that such a view was not realistic. We knew Japan would not go for the zoning of the high seas, that is, divide the ocean into two, for reasons I have already explained. We knew, also, that Japan would not, as a sovereign nation, agree to a bilateral treaty staying off each other's shores; therefore, we could not follow that line of advice. The other groups of industry had variations of opinions, some close to the fishermen's groups, others closer to our own. In other words, when we left for Japan there was no complete unanimity on the part of the fishing industry as a whole as to the kind of treaty we should present. When we did leave we had the agreement of the Fisheries Council of Canada on this particular type of convention. We did not have the agreement of the United Fishermen and Allied Workers' Union, and the reason for that they will no doubt present to the committee tomorrow or at some later date.

Q. What personnel comprised the representation from the Allied Workers' Union?—A. Speaking of the meetings as a whole, there were a series of these. I think Mr. Homer Stevens and Mr. Rigby were present at almost all of these meetings. From time to time they were assisted by Mr. Alec Gordon. I cannot recall, sir, any additional names.

Q. It would be the executive of the union?—A. The executive of the union, that is right, sir.

The CHAIRMAN: Are there any further questions, gentlemen, that you wish to address to Mr. Bates or to Mr. Ozere?

I want to say that we have a letter from Mr. Homer Stevens who has advised that he will arrive in Ottawa this afternoon and that he will be available to appear before the committee tomorrow, or on Thursday. As you have already accepted the decision of your subcommittee, we are to meet again tomorrow at four o'clock, at which time we shall hear Mr. Homer Stevens, delegate from the United Fishermen and Allied Workers' Union.

Are there any other questions, gentlemen, before we adjourn?

I might say, gentlemen, that we are going to try to get a larger room for the meeting tomorrow afternoon. I would suggest with regard to the maps

that possibly you might put your names on them and then if you do not wish to take them with you the clerk could collect them and they would be distributed again at the meeting here tomorrow afternoon or in whatever other room we decide to hold the meeting.

If there is no further discussion a motion to adjourn will be in order.

The committee adjourned until 4 o'clock p.m. tomorrow, Wednesday, May 28.

—The committee adjourned.

## EVIDENCE

MAY 28, 1952.

4.00 p.m.

The CHAIRMAN: Gentlemen, we have a quorum. The maps have been distributed to members of the committee and the meeting will come to order. Most of the members have received briefs and others will be distributed now to those who have not yet received copies.

I will ask Mr. Homer Stevens, delegate of the United Fishermen & Allied Workers' Union of British Columbia, to come forward and address the committee.

**Mr. Homer Stevens, Secretary-Treasurer, United Fishermen & Allied Workers' Union, called:**

Mr. Chairman and Gentlemen of the Standing Committee:

I am very glad to be in Ottawa and to have this opportunity of presenting the argument against the proposed tripartite fisheries treaty for the North Pacific ocean between the United States, Japan and our own country.

I am particularly glad that I am presenting our case directly to a Committee of the House of Commons, the supreme governing body of our country. I regret that the delegation of those who have come here to oppose the treaty is small. That is not our fault.

We make no apologies for the fact that the financial resources at the disposal of the organizations that sent me are not such as to make possible the larger and fully representative delegation we wished to send and which the importance of the issue merits. I ask the members of the committee not to be deceived by the fact that the fishermen's delegation is small in numbers.

In what I am to say, I speak for the fishermen of British Columbia and for their organizations. I speak for the trade unionists of Canada, who by their resolutions and letters have shown their agreement with the viewpoint we are presenting to this committee. The Trades and Labour Congress of Canada representing 497,300 members, to which we are affiliated, in their annual brief to the Cabinet at Ottawa on March 26, 1952 confirmed the national importance of the issue we wish to place squarely before this committee.

I am confident too that I speak for the majority of the people of B.C. and that if a plebiscite were taken in our province as to whether or not parliament should ratify the proposed tripartite fisheries pact for the North Pacific ocean, there would be an overwhelming majority vote against ratification.

As to the situation in eastern and maritime provinces, I cannot speak with the authority of experience but I do not doubt that after an opportunity to place all the facts and the arguments involved in this issue before all the people of these provinces had been provided, there would be majority support for our contention that to ratify this treaty is not in the national interest.

### *Some Previous Documents Listed*

The attitude of the fishermen and their organizations to the proposed tripartite treaty have been expressed in the course of the past year in many documents. Most of these have been brought to the attention at various times of the members of Parliament from B.C. and all of them have been forwarded to the Department of Fisheries and other appropriate government departments.

For the benefit of all the members of the committee, I wish to list some of the more important of these documents.

<sup>1</sup>May 11, 1951—Memorandum Re Japanese Treaty and North East Pacific Fisheries (Appendix 1).

## APPENDIX 1

## RE: JAPANESE TREATY AND NORTH-EAST PACIFIC FISHERIES

The following groups met today in the chief supervisor's office, representing the whole British Columbia fishing industry. Groups present were:

Salmon Cannery Operating Committee  
Fishing Vessel Owners' Ass'n of B.C.  
Native Brotherhood of B.C.  
Fishermen's Co-operative Federation  
United Fishermen & Allied Workers' Union

These groups have a unanimous view on the attitude that should be taken by the government of Canada in considering the Japanese Treaty as it affects our Pacific coast fisheries. The groups respectfully submit this view to the Honourable R. W. Mayhew, Minister of Fisheries, for his information and use in discussions with our government, along with that of the United States.

The Canadian fishing industry would ask the Minister of fisheries to refer to the exchange of letters made in Tokyo on the 9th February, 1951, between Mr. Dulles, the American Ambassador, and Mr. Yoshida, the Prime Minister of Japan, on the subject of Pacific coast fisheries. We do not believe that this exchange of views provides adequate protection for our fishing industry, insofar as it may imply an invitation to the Japanese to enter the fisheries off our coasts. Any peace treaty clauses based on similar ideas would likewise provide inadequate protection to our fisheries.

Before the war Canadians exploited no fisheries adjacent to the Japanese coast, nor did the Japanese exploit any of the fisheries adjacent to our coasts. Our government will, therefore, impose no hardship on the Japanese people if it works towards preservation of this condition in the post-war period.

We urge the government of Canada to preserve the Canadian interest in these fisheries—which the people of Canada have maintained by regulation, conservation and development, and by bilateral treaties with the United States in some cases. If exclusion of Japanese fishermen from these fisheries cannot be provided for in the peace treaties or in a protocol or concurrent document, it is doubtful if it can be achieved by any later fisheries treaty with Japan after she has regained her sovereignty.

We, therefore, request the government of Canada to take steps to see, that in a treaty of peace with Japan or in a protocol or other concurrent document, suitable provision be made to ensure that the Japanese fisherman stay out of the fisheries of the north-east Pacific ocean which we in some cases jointly with the United States, have conserved and developed.

This specific prohibition of Japanese fishing in the waters adjacent to our coasts may be achieved by zoning principles. We would be willing to keep out of the Japanese zone adjacent to their coasts, while they, in turn, would refrain from fishing in the zone adjacent to our coasts. In between, there would be a third zone covering the far offshore fishing for tuna and other species in which we would be willing to enter into negotiations with Japan looking towards joint conservation and development measures.

This was a statement jointly signed by the Salmon Cannery Operating Committee, the Fishing Vessel Owners' Association of B. C., the Native Brotherhood of B.C., the Fishermen's Co-operative Federation and the U.F.A.W.U. and was presented to the Department of Fisheries.

## APPENDIX 2

JULY 27, 1951.

Mr. Stewart Bates,  
Deputy Minister of Fisheries,  
Ottawa, Ont.

Dear Sir:

Our membership was most disappointed at the recent announcement of the draft treaty with Japan. From such reports as we have available the representations made to the department by organizations of our Pacific coast fisheries have found no reflection in the draft treaty. We would appreciate it if you could forward our office the full-text of the draft treaty for our reference.

I found it necessary to express the views of our organizations in an article in the July 17 issue of "The Fisherman", a reprint of which is enclosed. The question to us seems to be where do we go from here? In our view we should be stubborn and refuse to sign a treaty that does not provide the minimum protection for our interests. Surely we can afford to be as frank as the Philippines and Burma in expressing our opposition to the treaty unless it is amended to provide such protection as has been requested.

We would draw your attention to the U.S. Department of the Interior, Fish and Wildlife Service, Market News Service, Seattle report No. 107, June 1, 1951, which reports conversations in Tokyo between Senator Warren G. Magnuson, representatives of SCAP's Natural Resources section and members of the Japanese fishing industry, at which "in particular, proposed fisheries agreements between Japan and the United States were discussed. These fisheries agreements are expected to be concluded after the general peace treaty with Japan is signed." It seems to us an intolerable situation that such agreements should be discussed in Tokyo with Japanese representatives yet not have been discussed with representatives of our west coast industry. Have these proposed agreements been submitted to our government? We would certainly like to see them before our future is settled for us.

We note too that Mr. John Gizdavich, on behalf of Columbia River Packers' Association, has taken up residence in Tokyo and that the C.R.P.A. will maintain a permanent office there. Mr. Gizdavich was for many years a superintendent of plants for that company along the Oregon coast.

Many of our members have expressed deep concern about recent imports from Japan, both of canned and frozen tuna and the effect such a trend will have, not only in obstructing the growth of a tuna fishery of our own, but also from a longer term view upon our salmon markets, both domestic and export.

I understand that the minister is presently away from Ottawa. I trust you will convey to him at the first opportunity the strength of feeling on these matters and our hope that our government will not back down from insisting that our fishery interests are fully protected before a treaty is signed.

Yours very truly,

UNITED FISHERMEN & ALLIED WORKERS' UNION,

Per: .....

*Homer Stevens, Secretary-Treasurer.*

<sup>3</sup>September 20, 1951—Letter from U.F.A.W.U. to Hon. R. W. Mayhew enclosing petitions signed by B. C. fishermen. (Appendix 3)

## APPENDIX 3

SEPTEMBER 20, 1951.

The Honourable R. W. Mayhew,  
Minister of Fisheries,  
Ottawa, Ontario.

Dear Mr. Mayhew:

I am enclosing herewith petitions received in this office and addressed to the federal government expressing the opposition of the petitioners to the signing by Canada of any peace treaty with Japan that does not contain full protection for our fisheries. On a rough count there are I believe, 819 signatures on the enclosed petitions. Other petitions may have been sent directly to your office or to other cabinet ministers or members of parliament.

The attitude of this organization to the treaty as it affects the fisheries has been made plain through appropriate channels at various times. Whilst fully aware of the strength of feeling of our membership, our officers did not believe that there was sufficient time or opportunity or necessity in the middle of the fishing season to circulate a petition to inform the Department of an attitude which we felt at that time was shared by our government.

As the enclosed sheets show, the first petition was written out by a fisherman on the Fraser river and proved so spontaneously popular that in various other localities petitions were started and finally on the very eve of the San Francisco conference, this office began to receive letters from various points along the coast asking for petitions.

I sincerely hope that it is appreciated that under these circumstances the views of those whose signatures are appended are wholeheartedly shared by the overwhelming majority of fishermen who had no opportunity to express themselves in any way before the treaty was signed.

I regret that I am placed in the somewhat anomalous position of forwarding these petitions to your office when the treaty is already signed, but that is not our fault.

As an individual I might hope that your views of the effect of the treaty prove more justified than the fears of our fishermen, but as secretary of this organization I must state:

(1) The fishermen opposed the signing of a treaty which did not give our fisheries the protection which we consider we were entitled to receive;

(2) We hope that in the absence of such guarantees the present treaty is not ratified;

(3) If the United States was able to sign a military pact concurrently with the general treaty we cannot agree with the attitude that it was impossible for Canada to sign a bilateral fisheries treaty with Japan as requested by the fishermen.

This organization was established to give expression to the views of our membership as democratically determined. We have never hesitated to do that, whether or not such views are acceptable or otherwise at the time of delivery. I trust that in all further negotiations the desire of our fishermen for full guarantees against the invasion of any of the fisheries, which presently constitute the raw materials of the B.C. fishing industry, will not be disregarded.

Yours very truly,

UNITED FISHERMEN & ALLIED WORKERS' UNION,

Per: .....

*Homer Stevens, Secretary-Treasurer.*



The attitude of our organization and of the fishermen is expressed also in the petitions that were spontaneously circulated in the middle of the fishing season soon after the first announcement of the San Francisco conference, in the postcards, thousands of which were signed and mailed to M.P.s in November and in various articles and statements that appeared in the "Fisherman" and that are available for all members of the committee.

The purpose of this brief is not to repeat the extensive background material contained in these documents but to present, as concisely as possible, what the fishermen and their organizations ask of this committee, to state the justification for our requests and to answer objections and, in some instances, misrepresentation that have been advanced to justify the treaty which we oppose.

#### *What The Fishermen Ask*

We ask *firstly* that action be taken to proclaim, establish and uphold a Canadian doctrine of territorial waters for our Pacific offshore fisheries in harmony with our national interests and consistent with modern concepts of proper protection of coastal fisheries under international law.

We therefore ask this committee to recommend to the House of Commons

- (a) the proclamation by Canada in legal form to all countries of the boundaries of our territorial waters on the Pacific coast.
  - (i) This proclamation to be based on the Norwegian method of establishing base lines from which territorial waters are measured, as approved by the recent decision of the International Court at The Hague;
  - (ii) The width of the belt of territorial waters from the base lines to be proclaimed as Canadian waters for purposes of fishery protection to be not less than nine (9) miles (the Mexican limit) or more than the extent of the Continental shelf adjacent to our shores.
- (b) To the extent that U.S. fishing vessels have in the past exploited the resources of portions of these Canadian territorial waters, no change in the status quo will be instituted for such vessels, except by mutual consent and agreement between the governments of Canada and the U.S.
  - (i) Where treaties between Canada and the U.S. provide for joint conservation and regulation of fishery resources (e.g. halibut, sockeye salmon) in certain of these waters, such treaties will remain in full force and effect.
  - (ii) Where no treaty or other agreement exists between Canada and the U.S. for the conservation and regulation of any fishery resource in these waters, Canada to reserve the right to enforce against U.S. fishing vessels any regulation or order in the interest of conservation which is applied to Canadian fishermen.
- (c) The right of any state to proceed in the same manner to determine the extent of its territorial waters in the interest of conservation of fishery resources upon which its population is dependent to be recognized by Canada.

*Secondly*, we ask that this committee recommend to the House of Commons that no action be taken to ratify the proposed tripartite fisheries treaty between Canada, the United States and Japan.

#### *Reasons for Canadian Proclamation As Proposed*

We take the position that no country has the right as a matter of international law to deplete the limited resources of any of our Pacific coastal fisheries provided only they stay outside a 3 mile limit from our coasts.

The view stated by the Hon. R. W. Mayhew in the House on March 11 that "Japan or any other nation that cares to, may fish outside the three mile limit of our coast or the coast line of any other country" is not correct in fact for other countries and should not be accepted as permissible for our own.

To quote an expert\* on the subject:

State practice seems to the writer most illuminating. At the outset it is clear that, as the House Codification Conference made obvious to all the world, there is no such thing as a universally recognized three-mile rule. To be sure, there are many states, like Belgium, Brazil, Chile, Denmark, Ecuador, Egypt, Estonia, Germany, Great Britain and the Dominions, Iceland, Japan, Latvia, the Netherlands, Poland, the United States and Venezuela, which generally speaking adhere to the three-mile rule. On the other hand, there are likewise many other nations which do not adhere at all to this principle, or do so only to a very limited extent, such as Argentina, Colombia, Cuba, Finland, France, Greece, Honduras, Italy, Mexico, Norway, Peru, Portugal, Rumania, Russia, Spain, Sweden, Turkey, Uruguay and Yugoslavia. It is also important to note that some nations, as for instance, Ecuador, have introduced separate limits for their territorial waters at a greater distance than the ordinary three miles from their coasts for the special purposes of fisheries.

Moreover, there is not a single nation which has always and for all purposes adhered to the three-mile rule. So much depends on the balance of interests for the individual power! Nothing proves that more conclusively than the attitude of Great Britain herself . . . . .

One cannot look realistically at state practice without seeing that reasons of policy are the only factors which dictate the position of a nation on this question and that the reasons depend upon the particular interests of the nation concerned. These reasons frequently possess such a complicated and interrelated structure that any assertion of a principle which may be beneficial at the moment for one purpose might later prove to be detrimental for another. Great Britain's attitude is again the best evidence on this phase of the problem.\*

The same writer declares:

What, then, is the solution? In the opinion of the writer, the answer to this question can be found only in the application of international law as a means of adjustment of the various national interests in the spirit of a community of nations. On the one hand, there exists no mechanical three-mile rule which, regardless of the interests involved, is applicable under all circumstances and for all purposes. On the other hand, there cannot be complete anarchy. Therefore, if it is to be assumed justly that coastal fishing grounds, owing to their primordial importance for coastal states and owing to the very imminent danger of their complete destruction resulting from the employment of piratical techniques by distant nations, can be adequately preserved only by control and exclusive exploitation by the coastal state, international law must and does recognize the right to such control and exploitation by the coastal state, unless the vested, long standing rights of other nations are thereby infringed. This seems to be the only way in which important food supplies for mankind can be preserved, and, unless international law is to be regarded as a senseless and dead body of rules, a reasonable claim to coastal fisheries by the coastal state for conservation purposes is no breach, but fully in accord with international law.\*\*

\*S. A. Riesenfeld: *Protection of Coastal Fisheries Under International Law*, pp. 280-281 (Carnegie Endowment for International Peace, Division of International Law, Monograph No. 5, Published by the Endowment, Washington, D.C., 1942.

\*\*Ibid p. 282.

We therefore object to any statement, and we ask this committee in its recommendations to the House of Commons to sustain our objection, that the acceptance of the 3 mile limit for fishery purposes on our Pacific coast is imposed upon us as a result of international law.

To quote another expert\*\* on the same subject:

Let me repeat for emphasis that this is not a matter of external compulsion of law—of legal obligation. It is a matter purely of policy. The Anglo-American doctrine of territorial waters is Anglo-American propaganda. It is not revealed and generally acclaimed truth. Since the doctrine is self-imposed, the choice of continued adherence or of modification lies with our government and should be directed in accordance with the nation's interest. Of course our legal and diplomatic history will cause some embarrassment in charting progress and some difficulty in attaining a happy conclusion. There is first the matter of consistency. Inveterate consistency is a logical vice. It may be a jewel, but often it is inappropriately and extravagantly displayed . . . . Of course we should confess frankly a change of opinion with respect to jurisdiction over coastal fisheries. There should be a minimum of embarrassment in doing so, since in a world of rapid change this one accords with justice and the purposes of international law.\*\*

Mr. Mayhew's statement can have meaning therefore not as a statement either of fact or of law but only as a statement of government policy and it is this policy that we respectfully ask this committee to recommend be changed in accord with the national interest.

This request is not one that we make for the first time.

On September 28, 1945 President Truman by proclamation issued a statement of policy of the United States with respect to coastal fisheries in certain areas of the high seas which stated in part:

In view of the pressing need for conservation and protection of fishery resources, the Government of the United States regards it as proper to establish conservation zones in those areas of the high seas contiguous to the coasts of the United States wherein fishing activities have been or in the future may be developed and maintained on a substantial scale. Where such activities have been or shall hereafter be developed and maintained by its nationals alone, the United States regards it as proper to establish explicitly bounded conservation zones in which fishing activities shall be subject to the regulation and control of the United States. Where such activities have been or shall hereafter be legitimately developed and maintained jointly by nationals of the United States and nationals of other States, explicitly bounded conservation zones may be established under agreements between the United States and such other States; and all fishing activities in such zones shall be subject to regulation and control as provided in such agreements. The right of any state to establish conservation zones off its shores in accordance with the above principles is conceded, provided that corresponding recognition is given to any fishing interests of nationals of the United States which may exist in such areas. The character as high seas of the areas in which such conservation zones are established and the right to their free and unimpeded navigation are in no way thus affected.

*By Mr. Stick:*

Q. May I ask a question? What about the three mile limit. Does that contravene the international three mile limit which was laid down by the

\*\*Joseph Walter Bingham: Report on International Law of Pacific Coastal Fisheries, p. 42.

Hague court some years ago?—A. I think if the honourable member would care to examine the book by Mr. Bingham or that by Mr. Riesenfeld he will find there are many examples where the three mile limit is not yet considered to be international law.

Q. It was handed down as international law by The Hague court many years ago?—A. Another example of that is the fact that The Hague tribunal recently recognized the decision of Norway as being in accordance with their national interests and correctly in accordance with international law. That was the extension of her limit to four miles out from a base line.

In March 1946, the annual convention of our organization passed the following resolution which was forwarded to Ottawa:

Subject: *President Truman's Proclamation*

WHEREAS: President Truman has by proclamation announced that waters beyond the 3 mile limit off the coast of the United States will hereafter be subject to regulation and control of the United States for fishing purposes, except where agreement is made with other States, for joint regulation and control; and

WHEREAS: Mexico has issued a similar proclamation; and

WHEREAS: Canada has announced no statement of policy on a matter of great concern to Canadian fishermen;

Therefore be it resolved: That this convention of the U.F.A.W.U. ask the Canadian Government to proclaim a similar assumption of responsibility of regulation and control of our offshore fisheries; and

Be it further resolved: That we ask the Canadian government to proceed by immediate negotiation and discussion with the United States to define those zones in which Canada alone is responsible for regulation and control of fishing and those zones which Canada and the United States by treaty agreements, jointly undertake to regulate.

On July 4, 1947, the Prime Minister of Canada who was then Secretary of State for External Affairs, referring to the terms of the Truman proclamation on fisheries, stated in parliament that the general policy of the Canadian government was in accord with that which was expressed by the President of the United States. Pending, however, further clarification of United States policy, the issuing of a formal proclamation by the Canadian government was deferred.

Whilst President Truman's proclamation of 1945 shows both the justification and the possibility of governmental action to protect coastal fisheries, there is no justification for deferring action required in our national interest upon the clarification of the policy of other countries with interests at variance with our own.

Since our proposal involves no change except by mutual consent and agreement in respect to the United States, the only country at present with certain historical interests in the fishing waters affected by such a Canadian proclamation, there is no reasonable basis for serious objection by the United States government to such action by Canada. And surely it cannot be maintained that Canada may not do what many countries in the Pacific, including Mexico and even Panama, have done in proclaiming and enforcing jurisdiction beyond the 3 mile limit in their coastal waters.

Precisely because historically no other country but the United States has up to the present fished off our Pacific coast, such a Canadian proclamation is essential without delay. To wait for claims by other countries to be historically established is to abandon our national interest. Such abandonment, as we have shown, cannot be justified by reference to international law and should not be permitted by the House as a matter of governmental policy.

### *Why the Treaty should not be Ratified*

Our first objection to ratification of the proposed treaty is precisely that it is based on the acknowledgment by Canada that Japanese vessels which have never before participated in our coastal offshore fisheries have a right to do so in the future.

We oppose this treaty because if it is signed we will have recognized that Japan and every other country in the world have the *right* to bring their fishing vessels within 3 miles of our Pacific Coasts and into Hecate Straits to deplete fishery resources which we declare belong to Canada.

At New Westminster, on February 5, speaking to a meeting of fishermen, Mr. E. T. Applewhaite, M.P., who was a member of the Canadian delegation at Tokyo asked whether Canadian territorial waters had been defined in the course of the Tokyo talks, stated: "It was tacitly understood at the conference that territorial waters were those within the three-mile limit but there was no agreement as to what they actually were." Asked the further question as to whether there was anything in the Treaty which prevented Japanese vessels from fishing in B.C. coastal waters or in Hecate Strait provided they remained three miles offshore, he replied that the Japanese would be free to fish in Hecate Strait for anything except salmon, halibut and herring but he did not think it would be economically practical to come that far for cheaper types of fish.

By signing this treaty, we, for the first time, officially acknowledge that Japan has a *right* to send its vessels 6,000 miles from her shores to fish off ours. Incidentally, that should be more like 4,000 miles, the actual distance between Yokohama and Vancouver. And of course, in acknowledging that right for Japan we cannot deny it to any other country.

There need be no doubt that, once the treaty is ratified, this "right", gratuitously offered by the treaty, will be exercised.

We are constantly told that since Japan under the treaty agrees to voluntarily abstain from fishing salmon, halibut and herring it will be economically unsound to send fishing vessels for other fish. Thus, on March 18, 1952 the Hon. Tom Reid told the Senate:

I doubt very much, and no one expects, that Japanese boats will travel five or six thousand miles into eastern Pacific waters simply for crabs and sole, because it was the salmon which attracted Japanese fishermen to Bristol Bay.

Yet a week earlier, on March 10, 1952, Japanese cabinet minister Hirokawa in an announcement in Tokyo had already stated "crab fishing in the North Pacific seas *before ratification* of the fisheries pact would be *disadvantageous to the interests of Japan* and would create antagonism from American fisheries interests."

It is clear then that if the treaty is ratified Japanese vessels intend as a matter of right to fish for crabs. In 1936, they fished for cod in Bristol Bay. Moreover, Japanese mother ships presently fish for various species, including cod and bottom fish, at distances over 6,000 miles from home ports.

We ask this Committee to agree with us that it is not to the interest of Canada to ratify this treaty in order then to discover, after we are bound by our signature to a treaty, how unsound are all the predictions and promises that Japanese fishing vessels will refrain from fishing off our coasts.

Why Senator Reid should now entertain such unfounded expectations is indeed difficult for us to understand because he himself drew to the attention of the Senate, on February 15, 1951, a quite different picture, when he said:

I have before me an account of the Pacific Fisheries Conference which was held in San Francisco early in November last. Mr. Susumu Nikaido, a member of the Japanese Diet and of its Fisheries Committee, and Mr. Tahei Liyama, former chief of the Fisheries Agency of the

Japanese Government, together with Mr. Kenjiro Chikaraishi, Secretary of the Foreign Office of Japan, had a discussion with leading American representatives of the Pacific Coast fishing industry. The attention of Mr. Nikaido was called to the fact that *when the MacArthur Fisheries Mission visited Japan last year the heads of the leading ocean fishing companies of Japan had all admitted a desire to enter the coastal fisheries of the United States and Canada at the earliest permissible opportunity, and Mr. Liyama, upon being interrogated as to whether or not this was correct, admitted that it was.*

If indeed Japan does not intend to send any fishing vessels to our coasts, there would be no objection on her part to a treaty or other simple undertaking not to do so. There is no such obligation in the treaty now before this Committee.

It will be argued that if we accept the view that Japan and other countries have no right to send vessels to our Pacific coastal fisheries, then unless Japan and other countries accept that view, we have no protection.

The deputy minister, Mr. Stewart Bates, has stated: "In recent years, some countries on the Pacific made such 'claims' only to be told that other nations would not respect them. How do you enforce such a claim if other nations will not agree? You either back down or fight!" \*

We suggest that there is no need to do either. What we would do is to seize the vessel and bring the crew to trial before a Canadian court. Is there any country in the world that would send warships to compel us to permit their fishing vessels to fish in waters in which they have, as yet, no semblance of any historical claim? If it is suggested that Japan do so, that would only be additional justification for the insistence that she be not permitted to re-arm.

Suppose such a dispute were submitted to the International Court at The Hague. Upon what basis could any arbitration award support the intrusion into our coastal fisheries of countries which have no prior historic right in these waters?

Iceland, on March 19 of this year, announced that its Ministry of Industries had issued regulations effective May 15 for adoption of a "base line" system of defining territorial waters similar to that of Norway and for extension of Icelandic territorial waters from the previous three miles from the coast to four miles from the "base lines". The effect of this regulation is to exclude British fishing vessels from large areas where they had been accustomed to fish for more than half a century and from which British vessels had been taking about 1,500,000 cwt. of fish annually. Whatever the final outcome of this dispute, there is no indication that Iceland intends to either back down or fight.

There is no justification then for raising such a bogey in regards to our Pacific coastal fisheries where the historical background supports our claim. If, however, we ratify this treaty, we abandon for the future our justification for such a claim for we cannot either morally or legally sign such a treaty with Japan and then proclaim a Canadian doctrine contrary to its terms. And moreover, ratification of this treaty, if permitted, will form part of the historical record that would be considered by an International tribunal even if a dispute arose years later when the treaty itself perhaps is no longer in effect.

What does Canada receive in return for having recognized by treaty, and therefore prejudicing for all future negotiations, the non-existent right of other countries to rob our offshore Pacific fisheries of resources upon which our fishing and allied B.C. industries depend?

We receive the expressed willingness by Japan to voluntarily "abstain" from fishing salmon, herring and halibut off our coasts.

\* Paper read to Fifth Annual B.C. Resources Conference, Victoria, Feb. 27-29, 1952.

For how long is Japan committed to abstain? For a minimum of five years.

What happens after five years? They have the right to ask the International Commission consisting of U.S., Canada and Japan to agree there is no longer any need for "abstention". Can Canada then be outvoted in this Commission? No, because for the duration of the treaty such a decision to permit Japan to fish these three protected species must be unanimous. In other words, Canada will have a veto for this period of time.

But if dissatisfied with Canada's exercise of the veto, Japan can give one year's notice to annul the treaty which is signed for a minimum period of 10 years.

It may be claimed that it is most unlikely that Japan would permit this treaty to lapse after 10 years. We insist that there is no justification for ratifying the treaty in order to find out.

For the fact remains that if this treaty is ratified then after 9 years Japan may give one year's notice of termination for any reason whatsoever or for no stated reason. If that happens whether we are engaged in conservation or scientific management of any species of fish matters not at all. We will, by having signed this treaty, have agreed that Japan has a right to fish off our Pacific coasts and therefore an equal right no longer to abstain from fishing halibut, salmon and herring in these waters when the treaty expires.

For by signing this treaty, we not only grant Japan a non-existent right to participate in our coastal fisheries. We abandon our own right to control the salmon, halibut and herring fisheries in these waters and replace the effective protection of these fisheries as a matter of right by the unreliable protection of voluntary abstention by Japan for a 10-year period. We accept as a favour or concession what is ours by right. The threat will always be present that the favour might not be renewed except in return for reciprocal favours on matters having no bearing whatsoever on conservation. How can one doubt that when, even before the proposed treaty is ratified, we read in Japanese publications gentle hints that we are not grateful enough for the supposed favour we have been granted. Thus N. Tatsukawa, president of the International Marine Products Co. writes in the "Nippon Times" with reference to the proposed American duty on Japanese tuna:

It is regrettable that hasty action has been taken to get this new tariff legislation through Congress. The valuable results of the huge visible and invisible investments the U.S. taxpayers have so generously made in Japan in the past few years to make this land self-supporting and therefore a strong ally of America in the Orient will be greatly diminished if the tariff bill goes through. This is even truer in the face of the fact that quite recently Japanese fishermen accepted the American and Canadian proposal to refrain from salmon fishing in the northern Pacific, and therefore feel that they were assured a continuation of established trade on tuna caught in nearby and southern water.\*

Can those who favour this treaty provide assurance that it will be renewed after 10 years? Can they explain why Japan first proposed a treaty for 5 years, opposed a 15-year treaty and compromised on 10 years? Can they provide assurance that the price for renewal may not be additional concessions such as removal of Canadian tariffs on fishery or other products?

Surely these and many other questions need to be asked. And such ill-founded hopes, expectations and predictions as we have had to date are not acceptable by our fishermen as satisfactory answers.

\* Quoted from Fisheries News Letter, Sydney, Australia, March, 1952.

*Objections to the Treaty Summarised*

We may summarise the main objections to the proposed treaty under the following heads:

1. It acknowledges the right of Japanese vessels to fish in our coastal waters when there is no compulsion under international law to do so and no background of historic custom in these waters to necessitate any negotiation on the matter.

2. It accepts as a supposed favour what should be proclaimed as a Canadian right, namely abstention by Japan from fishing for salmon, halibut and herring in our coastal waters. But on this basis the supposed protection is illusory because there is no assurance of its continuation beyond 10 years and every likelihood of future demands for further concessions for every temporary renewal.

3. It immediately invites fishing in our coastal waters by Japanese vessels for every species of fish other than salmon, halibut and herring, including flat-fish, cod, rockfish, tuna, shellfish (shrimps and crabs), dogfish, whales and sharks.

4. There is every reason, if the treaty is ratified, to anticipate acceptance of the invitation because a theoretical right becomes assured only by its exercise; because under the treaty no party can be asked to waive its right to fish a resource if it is exploiting that resource itself on a substantial scale; and because restriction on Japanese fishing vessels by other countries in the Pacific will intensify the pressure on waters not previously frequented.

5. Any addition to the list of species on the "abstention" list for any signatory to the treaty is not to be expected because each signatory has a veto in this regard.

6. There is no definition of Canadian territorial waters and no recognition as to the status of Hecate Strait as Canadian territorial waters in the treaty. Japan under the treaty may therefore send trawlers into Hecate Strait and claim on the basis of the treaty equal rights with the United States.

7. Under the treaty Canada agrees to abstain from fishing salmon in the Bering Sea but the United States is not bound to abstain from any area or species.

8. There is no justification for any of the glowing phrases that this treaty will usher in a new era of international co-operation in the Pacific fisheries. On the contrary

(a) no other Pacific countries were consulted or invited to participate in the drafting of the treaty;

(b) there is no reason why other countries in the Pacific should wish to adhere to this treaty and in any case no provision in the treaty itself for other countries to become participants in the proposed International North Pacific Fisheries Commission. Resolution III at the Conference states merely that "the Conference recommends that, in negotiating with other Governments in respect to problems similar to those covered by this Convention, the contracting parties shall give full consideration to the spirit and intent of this Convention".

9. The consequence of this situation is that ratification of this treaty by Canada is not only contrary to our national interest but cuts us off from other countries in the Pacific whose condition and interests are more in harmony with our own.



10. The really unique feature of this proposed treaty is that Japan would become a member of a tripartite Fisheries Commission empowered to investigate fisheries in our coastal waters in which she has never previously participated.

There is no justification for this novelty and every reason to anticipate that such investigation will provide valuable information for future participation.

To regulate our Fraser River pink runs or to conserve bottom fish off our West Coast, we would need, not merely to negotiate directly with the United States but await investigation and recommendation by the new International Commission, with Japan as the third member.

The likelihood of an effective program of conservation prior to the depletion of any resource is lessened and not enhanced by such a situation.

Mr. APPLEWHAITE: Mr. Chairman, I hate to interrupt, but I wish to speak on a point of order.

The CHAIRMAN: Mr. Applewhaite, on a point of order.

Mr. APPLEWHAITE: We are all glad to hear from our witness today everything in criticism or matters that he wishes to bring up in connection with the Pacific Treaty and with the shortcomings, if any, on the part of those who negotiate it. I have only had an opportunity to glance briefly through this brief, but the next section has been well announced by the three lines which Mr. Stevens has read. It is going to contain a direct rebuttal of a speech made in the Senate by a senator at this session of the House, and I do not want to see this particular committee get itself into any worse difficulties than can be helped. I think it is not using too strong language to state that if the next few pages go on the record they will constitute a disparagement of a speech made in the Senate by a senator. I am not going to quote any more authorities than I have to, but I do wish to refer to a few. Citation 534 of Beauchesne:

Committees are regarded as portions of the House and are governed for the most part in their proceedings by the same rules which prevail in the House.

I do not think there would be any serious disagreement with the claim that it would not be possible for anyone on the floor of the House of Commons to undertake to disparage a speech made by a senator in the Senate. It is on that account, I think, that we have adopted that rather, it seems to me, silly practice of never referring to the Senate as such but calling it another place in order that we can never be accused of having criticized it as the Senate. Another citation, 243:

Allusion to debates in the other House are out of order, and there are few orders more important than this for the conduct of debate and for observing courtesy between Houses.

Citation 246 says:

Besides the prohibitions contained in Standing Order 41, it has been sanctioned by usage both in England and in Canada, that a member, while speaking, must not: (b) refer to any debate in the Senate, but he may refer to the official printed records of the upper House, though they have not been formally communicated to the lower House;

Citation 264:

It is out of order to read extracts in a debate if they: (e) allude to debates in the other House of Parliament.

This committee of the House of Commons is investigating the proposed treaty, and I do not think it lies within the powers of this committee to accept what I can only regard, by putting it my way, as criticism or disparagement of a speech made by an hon. senator in the chamber of the Senate.

The CHAIRMAN: Is there any further discussion on the point of order which has been raised by Mr. Applewhaite?

Hon. Mr. REID: May I say one word, Mr. Chairman?

The CHAIRMAN: No, my ruling is that you are not allowed, Senator Reid, at this time to make any discussion on this subject.

Hon. Mr. REID: If he mentions my name I am going to.

The CHAIRMAN: Order. As regards the point of order raised by Mr. Applewhaite: Is there any other member of this committee who wishes to speak on the point of order raised?

Mr. GOODE: As a new member of the House of Commons and of this committee, I am not in the same position as some to say whether Mr. Stevens is correct or not, but I would think as a matter of courtesy, without even referring to Beauchesne, that what Senator Reid said in the Senate is his own business and the business of the Senate. This is a committee of the House of Commons and it is my opinion we have not the right to criticize what the senator said in that august body.

The CHAIRMAN: Is there any other member of the committee who wishes to make an observation?

Gentlemen, as regards the point of order which has been raised by Mr. Applewhaite, I consider that it is a point well taken, and according to the citations which have already been raised and read by Mr. Applewhaite, I concur. It is not my intention to permit anything which may take place in this committee to be taken as a precedent which might conflict with the rules of order as laid down for the House of Commons and also for the committees. In this instance I would like to quote Beauchesne's Parliamentary Rules and Forms, second edition, citation 602, page 181:

Committees are regarded as portions of the House and are limited in their enquiries by the extent of the authority given to them, but governed for the most part in their proceedings by the same rules which prevail in the House.

I may say that I had the opportunity shortly before noon today to go over this brief, which I received just after 11 o'clock, and I spoke to the witness before the meeting this afternoon and suggested that this section, from pages 17 to 21, of his brief might be deleted from the evidence which he intended to place before the committee. However, the witness has decided to continue to read from the brief and my ruling is that this is inadmissible as evidence and also that the first three lines of this section which were read by the witness be struck from the record.

Mr. McLURE: Mr. Chairman, this information is already here, this reply to criticism. Would it not be better, if it were satisfactory to the hon. senator, to allow this to be read and to allow him to reply to it? I think we would get wonderful information that way. We would have two good witnesses then, but I would not make this request unless the hon. senator would approve of it himself. Of course we must give him a chance, if he desires.

The CHAIRMAN: The hon. member has made a statement, and while I have already made a ruling that ruling is subject to appeal to the committee, but I cannot change my ruling.

Mr. GILLIS: Mr. Chairman, I agree with the ruling of the chair for this reason. The committee is a committee of the House of Commons and we have heard the representatives of the government, the officials, the minister and so forth, and Mr. Stevens is here representing the fishermen's union and we are hearing his evidence. Now, the criticism that he makes of Senator Reid is not evidence, it is merely a controversy between his union and Senator Reid, and

what Senator Reid says in the Senate is not evidence before this committee, so I think that he would be well advised in buttressing his own case if he would eliminate the sections of the brief which deal with that controversy between his union and Senator Reid. It would be wasting the time of this committee and cluttering up the records, and, in my opinion, spoiling the case he has made for the fishermen with the direct evidence he has already presented, if we throw the committee open now to allow himself and Senator Reid to clutter up the record with a controversial argument that has no relevancy so far as this committee is concerned to the subject matter of his brief. I think he would be well advised to eliminate it and stick to the business that he is here for, that is to give direct evidence as against what the government and officials have already given, and eliminate this controversial matter altogether.

The CHAIRMAN: I want to thank the honourable member for the statement which he has made. My point in dealing with the point of order which has been raised is to protect the privileges of the honourable members of the Senate so that nothing might be allowed to go on which might impinge on their privileges.

The WITNESS: Deleting the objectionable section of the brief—

Mr. STICK: Well, what is eliminated now? Let us have it right before we begin.

The CHAIRMAN: I would suggest that the witness might begin to read on page 21. "There is another exception which is of major importance" and he might continue from there.

Mr. STICK: Where on page 21?

The CHAIRMAN: Starting "Mr. Stewart Bates—"

The WITNESS: Mr. Stewart Bates expressed somewhat more accurately when he states:

There is another exception which is of major importance to Canada. It is proviso (3) of Article IV. No country, according to this clause, can be asked to abstain from fishing where there is an intermingling of its fishing operations with some other party, and an intermingling of fish stocks. It is recognized that this applies to Canada and the United States from and including the Gulf of Alaska southwards and, therefore, no recommendation for abstention can be made by either the United States or Canada in such waters. In short, no matter what takes place in stocks or in conservation, we cannot be asked to abstain from fishing any species from and including the Gulf of Alaska southwards.

*This proviso is of the utmost significance to Canada. In that area Canadian fishermen are free to enter fisheries that they have not up till now used.\**

However, it should be pointed out that it is not because of this proviso or because of the treaty that Canadian fishermen are free to enter fisheries they have not up till now used. Without the treaty, we would be free from the Gulf of Alaska southward or northward to enter fisheries we have not hitherto used provided we stay out of the territorial waters of the United States. The treaty gives us absolutely nothing we did not have before—except additional headaches.

In the same paper, Mr. Bates, after disputing the possibility of enforcement of a claim by Canada to territorial waters beyond the three-mile limit (an argument with which we have already dealt), questions also the wisdom of such action. He writes:

But even if we could enforce such a claim, would it be wise? Canada has probably the smallest coastal area of all countries in the

\*Paper read to B.C. Resources Conference.

North Pacific, one of the smallest indeed in the whole Pacific Ocean. It is only 600 miles in a straight line between our northern and southern boundaries. If all nations bordering the Pacific made such off-shore zones, if they all agreed to possess such segments, Canada would be left with one of the smallest fishing areas in the whole Pacific basin.

But already our industry fishes outside that narrow zone, both northwards and southwards, and in the future may be expected to roam the Pacific farther. Perhaps our fishing industry too, needs a high degree of freedom of the seas, not only now but into the future.

Mr. Bates writes as if our problem and our national interest were identical with that of either the United States or Japan. That is far from being the case.

If we had sole use for fishing purposes of the 600 miles of coastal waters on the Pacific, we would have no cause for complaint and would be able to regulate this resource for our people in perpetuity.

We do not claim sole use of this resource because historically United States fishermen, our closest neighbours, have fished side by side with us for many years in our offshore waters and in theirs. We have no objection to continuing that historic practice on the basis of equality and reciprocity. On that basis, if the United States wishes to bar us from her coastal waters, we have 600 miles alone—and need no more. Otherwise, we will continue to share with the United States the much greater distance of the Pacific coast of the North American continent.

It is not in our national interest to concede the right of any other country in the world to deplete the resources upon which our growing population is now dependent, when there is no prior historical precedent for such claim.

That is why we oppose the treaty presently under consideration by this committee and why we hope that the Committee, after full investigation and consideration, will endorse our plea in the recommendations that it will place before the House of Commons.

#### *Conclusion*

In conclusion, let me say that Mr. Stewart Bates is mistaken when he states: "Many of our fishermen think we own the whole Pacific Ocean".\* I have yet to meet a single fisherman suffering from that delusion.

But we think that as Canadians we share in the ownership of that portion of the ocean that washes our Pacific shores to a sufficient distance from our coast to permit effective protection of the fisheries resource to be found in these waters.

We ask nothing for ourselves that we are unwilling to concede to others. We are not anti-American or anti-Japanese or anti any other people in the world. We are pro-Canadian. We believe all nations large and small have equal rights.

We stand for peace and fraternity amongst all the nations in the Pacific, in the Atlantic and in the world. And we are certain that there is nothing in our request to this committee contrary to these principles.

Respectfully submitted,

UNITED FISHERMEN & ALLIED WORKERS' UNION.

Mr. Chairman, before sitting down I might say that on reading over the record—and I had not had an opportunity of seeing the record of previous sessions of the committee—I came across a whole number of points which I would like to have the opportunity of going into. Perhaps some of them will come out during the question period but if not—and I would like to have some

\* "Canadian-American Relations In Fisheries"—Trade News, April, 1952.

time to prepare for that since I only received the report this morning. I would like an opportunity later to deal with some of the previous evidence—if it is permissible.

The CHAIRMAN: That will be a matter for the committee to decide.

We want to thank Mr. Stevens for his submission but just before he concludes I notice that in the quotation from Mr. Bates as printed in the brief he read: "Many of our fishermen think we own—" and he interjected there the word "whole". I do not know whether you intended to do that but you made it read: "Many of our fishermen think we own the whole Pacific ocean."

The WITNESS: I think the quotation is exactly correct as originally written and not as I stated it.

The CHAIRMAN: Now, no doubt there are members of the committee who would like to ask questions of Mr. Stevens and I presume Mr. Stevens will be glad to answer questions that might be put to him. Does any member of the committee wish to address any questions to Mr. Stevens?

*By Mr. Gibson:*

Q. Just for clarification, I notice in appendix 1 you have listed five organizations as subscribing to the original letter that you wrote. Do I understand now that the other four organizations have accepted in principle this treaty and you are the only organization opposing it?—A. No, I should clarify that, perhaps. The Salmon Cannermen's Operating Committee is now the Fisheries Association of British Columbia, and as I see in the record here, they, as part of their Fisheries Council of Canada, have endorsed the present fisheries treaty.

So far as I know none of the other fishermen's organizations have endorsed the treaty. I do know the Fishermen's Co-operative Federation have opposed the treaty both in their federation and in the member organizations of the federation.

Q. Are you representing them here?—A. No.

Q. You are not. Do I understand, Mr. Chairman, that they have not made a submission to us?

The CHAIRMAN: There was no submission made.

Mr. GIBSON: From the Fishermen's Co-operative Federation?

The CHAIRMAN: No reply from them.

Mr. GIBSON: Do you represent the Native Brotherhood of British Columbia?

The WITNESS: No, here today I am only representing the United Fishermen & Allied Workers' Union. I think possibly some of the others may be sending written representations but I do not know. Apparently they could not afford to send delegates down here.

The CHAIRMAN: I may say in regard to that we have no replies from the Fishermen's Co-operative Association, Vancouver; the Canadian Fishing Vessel Owners' Association, Vancouver; the Prince Rupert Fishermen's Co-operative Association; and the Native Brotherhood of British Columbia.

*By Mr. Pearkes:*

Q. Might I ask a question regarding page 4 of the brief. Reference is made there to the possible base line from which might be declared the territorial waters of Canada. What in the opinion of the witness does that include? Would the recommendation be to include as territorial waters the Hecate Strait, Dixon entrance, and so forth? I wonder if he has any information on the point or whether he might indicate the areas on the map behind him. Where do they recommend the base line should run?—A. Mr. Chairman, and honourable members, I have a map with me upon which we have drawn the base line as we feel it should run.

We have proposed or drawn up a chart which we think would meet the condition we propose and we drew the base line from point to point, to include some of the small islands, right across the mouth of Queen Charlotte Sound, which would be declared as territorial waters—right up around Queen Charlotte Islands and over to West Devil Rock in Dixon entrance.

I do not know whether it is possible for all members of the committee to see the small red line which represents the three mile limit—three miles from the base line. The other line represents nine miles from the base line. As you can see it would include most of Queen Charlotte Sound, Hecate Strait, and part of Dixon entrance as being Canadian territorial waters. I might also add we have tried to get really specific information on what are now the territorial waters of Canada. We are told they are three miles and that they follow the general contours of the coast; which means fishermen could be fishing in here between Estevan Point and Cape Cook up the west coast of Vancouver Island. So long as they were three miles off the nearest land they would be considered to be on the high seas. We do not know what the position of the American fishermen who go trawling in this area off Hope Island is. At the present time the government takes the stand that as long as they stay out three miles from the nearest island they are on the high seas. We believe all this area should be defined as Canadian territorial waters. Then, if we wanted to make agreements with the United States because of their historic rights we would be free to do so.

Q. Can you point out where the international boundary is in Dixon entrance—because you have swung your three mile limit eastward to meet the international boundary?—A. The present boundary runs just out here. We have swung from the last point of land at the top of Queen Charlotte Islands over to West Devil Rock. That is something, not being a legal expert, on which I would not say we were correct. There may have to be some variation in that. We did it so that we could give you an idea of what we had in mind.

Q. In other words, you swung the line back so that it meets with the now recognized international boundary?—A. That is right.

Q. Can you say, because not all members of the committee are from the Pacific coast, what is the importance of Hecate Strait which you have mentioned frequently. Is that an extensive fishing ground?—A. Yes, very much so.

For the benefit of members of the committee not from British Columbia, this is commonly regarded as Hecate Strait. There is no exact dividing line between Hecate Strait and Queen Charlotte Sound but through this whole area there are very good fishing grounds for halibut, salmon, cod, soles, crabs, and a whole number of species. I might say this area, which includes also Queen Charlotte Sound and Hecate Strait, produces a very large percentage of the halibut which is taken. I would say that something between 12 million and 14 million pounds of halibut are landed by Canada and a similar amount by the United States which come primarily from this area.

I might also add that in 1944 and 1945 while I myself was fishing as a trawler, using an otter trawl off the west coast of Vancouver Island, most of the fisheries we pursued were through the straits of Juan de Fuca, from Point Renfrew to Ucluelet, and Estevan Point, halfway up Vancouver Island. That is the area where the main fleet of draggers, out from Seattle, Astoria, Eureka, San Francisco and so on, were operating. Since that time both the Canadian and American fleets, because of the decreasing supply, have had to move farther north or west up into the Queen Charlotte Sound and Hecate Strait.

I have not got figures for the exact poundage of flatfish, cod and so on, but they would be very considerable—particularly from the point of view of the American draggers who now, having depleted a lot of the shore line here, have had to move into this area. We have also considerable salmon fishing.

Q. Can you tell me whether there are any limits as to the type of equipment for fishing flatfish, cod, and sole in that area—in the Hecate Strait area?—  
 A. Well, primarily the flatfish—that is sole, flounder—various species of sole—are caught by trawls. Do you want me to describe the net in detail or will “trawls” be sufficient?

Q. That is all right.—A. Cod is also considerably taken by the trawlers. They would be able to take halibut except that they are not allowed under the International Fisheries Treaty to land halibut. A lot of cod—ling cod, black cod, and so on, is also landed by what we call long liners. They take a certain amount of cod incidental to halibut fishing, and some of them take certain other fish—what they commonly refer to as scrap fishing—black cod, link cod, grey cod, and so on.

Q. If a fisherman was using a trawler or long lines for these species, would there be any danger or possibility of him catching salmon, herring, or halibut at the same time—shall we say by mistake?—A. The only species that lends itself to being caught by trawl, other than what they are normally allowed to get, are halibut. Halibut could be caught very extensively by trawlers and, as the Department of Fisheries would probably say, there have been a lot of rumors of that coming from our own boats. Salmon cannot be very easily taken by trawls—they are too fast moving a fish to be taken that way.

While herring could be taken by trawls, the net is especially designed so that the herring cannot be taken very readily by trawls designed for the taking of flatfish, cod, and sole. In other words a herring trawl must be of a smaller sized mesh to hold the herring. So, there is danger of catching halibut by trawl but not herring and salmon.

Q. By long lines?—A. Long lines can take halibut. As a matter of fact, that is the primary way of catching halibut. They would not take any amount of salmon—it would be very rare.

*By Mr. Goode:*

Q. I expect an opportunity will be given us to question Mr. Stevens again, but I would like to refer him to appendix 1, the last paragraph, where it is suggested that three zones be set up in the Pacific. Geographically, where would we arrive at those zones? Where would they end?

Secondly, how would they be governed? Who would be in control of the boundaries themselves when they were maintained?—A. On the first question we felt that Canada should proclaim a zone. We did not specify it as you note there, and this was quite early in the discussions. We should proclaim a zone where we would have the primary right and where the Japanese vessels would not fish—far enough offshore to protect all the various species of fish upon which we depend.

Q. How far?—A. We put it this way in our discussion with Mr. Bates at that time: Whether it would be 150 or 200 miles we were not prepared to define and say, but certainly far enough offshore to protect our interests. Also, we would grant Japan a similar right to proclaim a zone off her coast.

The regulation of that zone, the second part of your question, would have to be by the two nations. In other words once we had defined those zones Canada would look after the patrolling of her own zone and Japan would look after her zone. There are large areas in the Pacific which would not be affected by those zones and which we would consider as a third zone over which there could be joint control and so on.

Q. Following your argument, if this came about and if we had a zone 100 miles off the west coast of Vancouver Island, and a zone 100 miles east of the islands in Japan, how would we control zones of that kind? For instance, say

that Russia wanted to come in and fish 50 miles off the coast of Canada—which I understand they are allowed to do now. How would we control that?—A. I think we explain that in the brief.

Q. I want you to tell me?—A. What we think should be done if a vessel came out to fish within 50 miles of our coast to take salmon, herring, or halibut or any other species? They should be intercepted—if we can intercept them—and brought into Canada courts and charged.

The question comes up about protests from other nations and in such protests we would have to go before the international court for the matter to be decided. We should follow the practice that Norway followed prior to the decision in her favour. In other words, she seized the vessels first and got explanations afterwards.

Q. But you will concede that is not the way that Canada does business. If we seized a vessel 90 miles off the west coast of Vancouver Island, and supposing your idea is one which is accepted by Canada, have our courts got jurisdiction over that boat? Would we be within our rights in taking those fishermen into our courts—under international law?—A. I should think we would, providing we could show evidence that the vessel was catching fish which were vital to our economy, welfare, and our future livelihood. If we seized a vessel just because it happened to be passing through en route to one or another ports on the American continent we would not be anywhere within our rights at all.

Q. As it happens I am not a lawyer and so I ask you: Have we the right to seize vessels outside of the three mile limit, bring them into our courts? I do not know?—A. We say we should have that right—if a vessel came for example and was fishing halibut just off the three mile limit—other than a United States or Canadian vessel. I am sure some action would have to be taken by our government, otherwise the treaty we now have means nothing.

Q. Let me give you an example. If a Japanese fishing boat is fishing five miles off the west coast of Vancouver Island now, could one of our patrol boats go out and seize that vessel? Have we the right to sue that vessel in courts in Canada?—A. I am not sufficiently expert on international law to say, but I think we have the moral right—

Q. But your brief is based on international law protecting Canada in this case. Can you tell me how if that Japanese boat is seized five miles off the west coast of Vancouver Island can we successfully sue her in Canada, or would we have to bring that boat before the government of Japan?—A. Under this treaty you would have to turn it over to the government of Japan. That is one of the reasons we do not like the treaty.

Q. Has it not always been done that way?—A. No, otherwise Norway could not seize British vessels—British trawlers—four miles off her coasts in an area where there was sixty miles between points. Even though the British were protesting all the time Norway was able to seize those boats and penalize them.

Q. I do not know about Norway but if that boat is seized five miles off the coast of Vancouver Island can we successfully sue that boat or do we have to return it to Japan?—A. I say we could.

*By Mr. Pearkes:*

Q. I would like to ask one other question. On page 9 the statement is made that it is acknowledging that Japanese vessels have never participated before in coastal offshore fishing—in other words that Japanese vessels in the past have not come over to these waters to fish. Later on it is suggested that there is a fear they will do so in the future. On what is that fear based? Is there any radical change in conditions which now make you apprehensive of Japanese vessels coming to the west coast?—A. It is precisely that point that raised some of the main objections.



Japan, prior to the war, was moving into a lot of fisheries. I think anyone who wishes to get the information can get it but she was moving into the Bering sea or attempting to, and she was moving into places as far away as the Mediterranean—having plans drawn up that way. We believe those plans continue to exist.

One of the incentives under such a treaty will be that she would want to establish that right not only in theory but in practice. Secondly, Japan, as some of the members will realize, has been cut off from certain fisheries which she had prior to the war—notably the Kamchatkan peninsula in Asia. We have seen reports that the Netherlands government is trying to get some protection for their land. The Philippines are concerned about the situation, Australia is, and so forth. There will be a stronger incentive also in Japan's desire to get American dollars—in other words to get fishery products which she can export into Canada or into the United States. That will be another incentive to come into our fisheries. We believe, therefore, that there will be even a stronger impulse on Japan's part once this treaty is ratified than there was prior to the last war. There have also been examples given of the growth in population, but we do feel that this necessarily is the main point because in some of the long range fishing expeditions it is apparently not so much the question of getting food for home consumption as it is of primarily getting fish which can be exported to obtain dollars. We believe that the Japanese people are entitled to a high standard of living, and we believe that they have very considerable resources right around their own islands, according to the reports we have received, but we do not feel that her vessels should be free to come in to within three miles of our coast for any type of fish and deplete a fishery upon which our fishermen are dependent.

*By Mr. Goode:*

Q. May I ask one more question, Mr. Chairman. In the brief on page 2, Mr. Stevens said:

I am confident too that I speak for the majority of the people of British Columbia.....

How do you know that?—A. I am sorry that a plebiscite has not been taken on this treaty, because if a plebiscite had been taken I would be in a position to answer that conclusively. We made that statement because numerous, very numerous organizations passed resolutions similar to the stand that our organization has taken. We know of very few organizations or citizens' groups that have taken a stand in favour of the treaty.

Q. I would just be about as correct as you are if I said now that the majority of the people of B.C. do not support your brief. That statement would be just as true as the one you are giving to the committee?—A. I do not think it would be so true.

Q. I haven't any information on it—this is an entire assumption and has no basis in fact?—A. I refuse to agree with you on that.

Q. I do not blame you a bit.—A. We consider it a very considered statement.

Q. This statement in your brief is to the effect that the majority of the people of B.C. agree with this brief. Could you give some figures? I want to know exactly how you arrive at that statement.—A. There has been no plebiscite, so I cannot give you the figures.

Q. Then the statement is just an assumption. That is true, is it not?—A. We consider it to be a very considered opinion.

Q. I ask you the question and I am entitled to an answer, yes or no, that this is largely an assumption.—A. Mr. Chairman, do I have to answer yes or no? To me it is the same as asking if you beat your wife.

Q. No, I do not agree with you at all on that. Mr. Chairman, he makes a definite statement in his brief. He says, "I am confident that I speak for the majority of the people of B.C...." I say that I doubt that statement and that I am entitled to a straight answer as to whether it is an assumption or not.

The CHAIRMAN: I think, Mr. Goode, he has already answered that.

Mr. GOODE: What was the answer?

The CHAIRMAN: He said "that in his opinion..."

Mr. GOODE: But he does not say "in his opinion" in the brief. He says he is confident that it is so.

*By Mr. Mott:*

Q. Mr. Chairman, there is just one question that I want to ask Mr. Stevens. In regard to the base lines along the coast you are mentioning, did you take into consideration the whole country as a nation, both the Atlantic and Pacific coasts, when you say three miles off the coast? Did your organization take into consideration a separate treaty with the United States or Japan? Could you just make one treaty for the Pacific coast and another one for the Atlantic? Just to look at the map of Canada—on the Atlantic coast you see Newfoundland, which is now a province of Canada, and then the other parts of the coast along there. Why, you would practically have to go to Sable Island, 180 miles off the N.S. coast, and the whole Grand Banks would be inside a similar base line you are talking about on the Pacific. I was just wondering if you gave any consideration to facts like those?—A. Well, I do not really feel qualified to speak for the fishermen on the Atlantic coast as to what they might feel, but I imagine if such a line were drawn by the Canadian government, and enforced, that they would be very happy. I believe that there are, from what I have read about the subject, some very different problems there. For example, you have the historical tradition of 10 or more countries fishing on the Grand Banks and close to the coast. I have been reading some statements where apparently they come right up to the three-mile limit, following the general configuration of the coast. I do not think the stand we take could just be automatically applied to the east coast of Canada. In reply to your question, I might say we were not considering what effect this might have there, although I do not think it could be a harmful effect.

Q. It would also be a good treaty for the Atlantic fisheries if such a thing could happen. You also mentioned "a historical right". Has the United States not got a historical right now on the British Columbia coast? Would you consider their rights historical on the British Columbia coast?—A. Yes, we say that in our brief, on page 4,

To the extent that U.S. fishing vessels have in the past exploited the resources of portions of these Canadian territorial waters, no change in the status quo will be instituted for such vessels, except by mutual consent and agreement between the governments of Canada and the U.S.

Then we go on to elaborate that a little more completely. We have had some discussions with organizations of American fishermen. We have made our point of view clear and in some cases they do not exactly like what we say, but we have been able to retain very friendly relations on the basis that we tell them quite conclusively that something will have to be done by Canada if there cannot be international agreement to preserve the fisheries off the west coast of Vancouver Island outside the three-mile limit in the Queen Charlotte Sound, and in Hecate strait. We have been proposing controls and more controls for a number of years. We send our delegates down to meetings

held in the United States occasionally and they propose that an international body be set up with power to regulate that whole offshore fishery between Canada and the United States, recognizing our general interest there, but we feel we are not getting enough satisfaction and if we proclaim our right to control that, or if we say that any regulations drawn up for conservation which we want to apply to our fishermen can and will be applied to American fishermen in those waters, we do not think we are being unfair to the Americans. Many times we have proposed regulations, for example, for a closed season in cod, a species of fish which used to be plentiful in all the bays and inlets off the west coast of Vancouver Island. I fished there in 1941 from a trawler operating in Barclay Sound when it was no trick at all for us to catch 10 or 15 thousand pounds of ling cod in a week's time. Today any dragger fishing in that area would be very lucky if he could come away with 500 pounds in a week. The same goes for the offshore fisheries; they are being exploited in this case not only by Canadian fishermen but by Americans. When we ask our government to put a closed season outside Vancouver Island for three months on ling cod, the same as the closed season that applies on the inside, we are told it would be senseless to do that because they could not control the American boats, so the Canadian fishing boats would be tied up for three months and the Americans would be there fishing. We do not consider that proper. We think Canada should have the power to get agreement to regulate these fisheries even if it means curtailment of American vessels.

The CHAIRMAN: Mr. Stevens, I would like to ask you if you could tell the committee the number of fishermen that you represent and the number of allied workers in your union.

The WITNESS: Our total membership is approximately 8,000. They are distributed about in this way: about 48 per cent shore workers and 52 per cent fishermen. I should say shore workers and tender men in that 48 per cent, and about 52 per cent fishermen. The total number of fishermen who are members of our organization would be something in the neighbourhood of 4,400.

Mr. GIBSON: Do all the fishermen belong to your union?

The WITNESS: No, unfortunately, some of them do not. There are quite a large number who belong to some of the organizations we listed in that original statement and there are some fishermen, unfortunately, on the Pacific coast who do not belong to any organization.

Mr. STICK: What percentage of the fishermen do you represent? Have you any idea, roughly?

The WITNESS: I would say that amongst the salmon seiners approximately 80 per cent; with the exclusion of a few natives, practically all of the salmon seiners belong to our organization. Among the gill netters I would put the estimate around 65 per cent. Trollers—I would not want to venture a guess. We do not have a great number of trollers who are members of our organization, although quite a large number have indicated their desire to join up this year because of certain economic factors. Amongst the halibut fishermen out of the ports of Vancouver, Victoria, New Westminster and most of the ports with the exception of Prince Rupert, we represent close to 100 per cent of the halibut fishermen.

Mr. GOODE: I am waiting for you to put on the record the name of Steveston, which is in my riding.

The WITNESS: Oh, yes, Steveston.

The CHAIRMAN: As Mr. Stevens has expressed a desire to be heard again before this committee, might I suggest that possibly for the few minutes remaining—it is now 11 minutes to six—we recall Mr. K. Fraser, delegate of the Fisheries Association of British Columbia, of Vancouver, B.C., and ask him

if he is ready to give us the information which committee members asked for yesterday. The reason I would like the committee to hear him now at this time is because I understand he has plane reservations to leave tonight for British Columbia. Would that be satisfactory to you, Mr. Stevens?

The WITNESS: I would like an opportunity tomorrow if that could be arranged, either tomorrow or Friday.

The CHAIRMAN: What time tomorrow?

The WITNESS: I would like most of the day to prepare, but I could work at it tonight.

The CHAIRMAN: Our meeting will be at 11 o'clock tomorrow.

The WITNESS: That will be all right.

The CHAIRMAN: I will now ask Mr. Fraser to come to the table.

**Mr. K. Fraser, Delegate of the Fisheries Association of British Columbia, Vancouver, B.C., called:**

The WITNESS: Mr. Chairman and gentlemen, I thank you for your consideration. I have obtained certain information which enables me at this time to answer some of the questions asked by members of the committee yesterday. The figures given in all cases are approximate, as it would be very difficult to obtain the exact figures to answer these questions.

The first question asked was what proportion of the catch of fish in British Columbia was handled by members of the Fisheries Association of B.C. The members of our Association handle 98 per cent of the salmon canning operations, 100 per cent of the reduction operations and 75 per cent of the fresh and frozen catch.

Another question had to do with the number of employees and the number of fishermen delivering to members of the Association. The number of employees and fishermen vary from season to season but the average number of employees is 3 to 6,000 and about 10,000 fishermen deliver their catches to members of the Association.

With respect to payrolls, the member companies of the Association pay annually to employees about thirteen million dollars in wages and salaries and they pay approximately thirty-two million dollars to fishermen.

It is impossible to break payments to fishermen into the categories of money paid for fish caught in territorial waters and money paid for fish caught outside territorial waters.

I believe that answers your question, Mr. Goode, does it not.

Mr. GOODE: Yes. Thank you for the trouble you have taken.

The CHAIRMAN: Is there anything more you would like to add to the statement you gave the committee yesterday, Mr. Fraser?

The WITNESS: Nothing at this time, Mr. Chairman.

The CHAIRMAN: Are there any other questions to be addressed to Mr. Fraser? If not, I want to thank you very much Mr. Fraser, for your presentation and I hope you have a very good trip back to British Columbia.

It has been suggested that the committee adjourn until 11.00 o'clock tomorrow morning.

Mr. GIBSON: A number of members of the committee will be away tomorrow, Mr. Chairman.

The CHAIRMAN: At what time?

Mr. GIBSON: Late in the afternoon. Would it be possible for us to have Mr. Stewart Bates with us again tomorrow? I think it would be very

useful to the members of the committee if they could have the privilege of questioning Mr. Bates on the objections which are summarized on page 15. I wonder if Mr. Bates could be here tomorrow?

Mr. MACNAUGHT: Yes. Mr. Bates will be here.

The CHAIRMAN: Yes. Mr. Bates is with us this afternoon and he will be here again tomorrow.

It is agreed then, that we shall now adjourn until 11.00 o'clock tomorrow morning in room 430.

The committee adjourned.



## EVIDENCE

MAY 29, 1952.  
11.00 a.m.

The CHAIRMAN: Order, gentlemen, we have a quorum.

Mr. Stevens is here this morning and he has asked to have the opportunity of speaking to the committee again. I will ask Mr. Stevens if he will come forward and make his statement.

Mr. Homer Stevens, Secretary-Treasurer, United Fishermen & Allied Workers' Union, called:

The WITNESS: Mr. Chairman, gentlemen: As stated yesterday, I wish to present further evidence and argument in connection with the earlier statements made to this committee.

My preparation has been rather short and I hope in anything I say I will not prejudice the case of the membership that I represent.

First, I would like to deal with Mr. Bates' reference to the essence of the problem. He refers to it on page 14 of the original submission:

I think the essence of the problem relates to the fishing resources on the high seas. Traditionally the high seas have been regarded as free, free for navigation, and free for fishing.

The particular resources with which we are concerned spend most of their lives in the high seas, and as such they are open to the fishermen of all countries. That concept of the freedom of the seas, is, I think, one of the basic concepts of freedom in the minds of men, and it has certainly been so since the sixteenth century.

He goes on to say further:

In Canada as in the whole commonwealth and as in the United States and some other countries, territorial waters have been measured traditionally on the basis of the three mile limit; the three mile limit measured from meanderings of the coast.

And, further:

If you start from the basic presumption that the seas are free outside the three mile limit, you immediately have a major problem in fisheries because the seas are free, there is a danger with respect to fishing and that danger is probably greater today than it has ever been. It is a danger which was recognized on the west coast of this country, and steps were taken to try to prevent it.

We can agree with Mr. Bates—"that if you start from the basic presumption that the seas are free outside the three mile limit you have a major problem in fisheries". We believe that there is absolutely no justifiable reason for such a presumption. We have tried to show by quotations from experts on the subject that there is no internationally accepted "three mile limit".

It should be obvious to members of the committee that our contention is correct. Nevertheless, here are some additional facts taken from Stefan A. Riesenfeld's book on "Protection of Coastal Fisheries under International Law".

France agrees in part with the three mile rule but France, in 1936, extended the territorial waters of Indo-China for fishery purposes to two myriameters

(10.7 nautical miles). It was declared that the decree was issued because of the necessity to protect the fishing banks along the coast against irregular exploitation.

Spain has stated that: Spanish law has adopted the unwritten principle that territorial waters shall extend for six miles, or 11,111 meters, from the extreme seaward limit of the coastline or from low water mark.

Portugal seems likewise to have claimed jurisdiction over the coastal waters generally to a width of six miles. In 1929 the Portuguese government recommended a territorial belt of 18 miles and at the same time stated the breadth of territorial waters, for purposes of fishing and with a view to giving the States exclusive fishing rights, should be much more than six miles.

Italy claims a territorial belt of six miles, and special rights for an additional six miles.

Yugoslavia in 1930 stated that her territorial waters extended to six miles from the coast for all purposes, including fishing rights.

Sweden claims traditionally a territorial belt of four miles for all purposes. Furthermore, she calculates the breadth of territorial waters by drawing a basic line between the outermost points of the coasts, islands, islets and rocks, the line being drawn across the mouths of the bays, irrespective of their widths.

The Soviet Union generally claims control within a coastal zone of 12 miles.

Mexico claims jurisdiction over a 9 mile belt off her coasts and has even claimed dominion over the continental shelf adjacent to her shores to a depth of 200 metres.

It may also be correct to say that in Canada, as in the whole commonwealth and as in the United States and some other countries, territorial waters have traditionally been measured on the basis of the three mile limit. Nevertheless, we believe very strongly that it is high time Canada took a more positive, modern, and realistic view of the need for more protection to her Pacific coast fisheries than the old "tradition" provides. After all, it is common knowledge that the three mile limit was originally based on the recognition of the distance of a cannon shot.

Mr. GIBSON: On a point of order, Mr. Chairman, I am just wondering if this particular submission is not something that should be before the External Affairs Committee rather than before the Fisheries Committee. Just how pertinent it is to this particular treaty we are discussing now I do not know? It seems to me it is a matter of government policy as to whether they are going to make a declaration of where our continental fishery limits are going to be established. I would hardly think it is within the ambit of the Fisheries Committee to discuss a matter of that kind. I am just wondering how the other gentlemen of the committee feel.

Mr. PEARKES: Mr. Chairman, we permitted a discussion or statement of this subject by the deputy minister and surely if it was in order then it should be in order to continue discussion now.

The CHAIRMAN: Has anyone else anything to say?

Mr. Gibson?

Mr. GIBSON: I was just wondering did the deputy minister know as much of the background as far as the limits of the territorial waters are concerned? I think the Fisheries Department feel that it is beyond their jurisdiction.

Mr. APPLEWHAITE: I think, Mr. Chairman, it is beyond the ambit of the report which we would be able to make. I do not know that it is objectionable that it should be discussed, but I do not think we are going to be in a position to make any recommendation on what is or is not to be the extent of our territorial limits.



Our recommendation is going to have to be definitely what we do or do not do with the proposed Japanese treaty and I would respectfully suggest that Mr. Gibson's point is very well taken. But at the same time I would also suggest that some discussion of the matter is not objectionable while it may be irrelevant.

Mr. PEARKES: Would it not be within the competence of this committee to refer the question and recommend that consideration be given to this problem by the Committee on External Affairs?

The CHAIRMAN: Any other discussion on the point of order?

Mr. GILLIS: Mr. Chairman, I do not agree with Mr. Gibson. If the treaty is legitimately before this committee, then the discussion that the witness is carrying on is in order because the treaty itself deals with that very subject, the zoning of the waters, the striking of what our coastal limits are going to be and conservation measures.

If Mr. Gibson is right, then this treaty should have gone to the External Affairs Committee, but if it is legitimately before this committee, this discussion that is being carried on now is one that bears most heavily, in my opinion, on this treaty itself.

Mr. APPLEWHAITE: In reply to Mr. Gillis, Mr. Chairman, I repeat I do not think the discussion is objectionable but it only is within the ambit of the treaty to the extent that the treaty excludes it because the treaty says:

Nothing in this Convention shall be deemed to affect adversely (prejudice) the claims of any contracting party in regard to the limits of territorial waters or to the jurisdiction of a coastal state over fisheries.

In other words, the draft treaty says that it does not affect the matters of territorial waters and to the extent that it is referred to as an exclusion it is in the treaty but to that extent only.

Mr. GIBSON: So if that has been excluded, what are we talking about?

Mr. GILLIS: It certainly is not excluded. It opens it wide open; it says nothing about it but it very definitely is there.

Mr. GIBSON: But this treaty has been referred to. What has been referred to is the treaty and yet the treaty specifically excludes any attention as far as territorial waters is concerned.

Mr. GILLIS: Well, all through Mr. Bates' evidence the pertinent matter under discussion before this committee was how far the ships were coming in, just how far they were to fish and the whole discussion was on that. In my opinion that is what the treaty is trying to set out, just where you are going to fish.

The CHAIRMAN: Is there any further discussion on the point of order?

Mr. MOTT: Not on the point of order, Mr. Chairman.

The CHAIRMAN: There is a point of order before the committee at the present time.

Mr. MOTT: I do not think this comes under the point of order. I was just looking at the quotation made by Mr. Stevens in regard to the remarks made by Mr. Bates, and if he would have followed it along I believe it is covered there just underneath what he is reading as far as I can understand what is being quoted, and I was wondering if it had not already been covered by Mr. Bates. He explained all these six and twelve-mile limits.

Mr. BLACKMORE: Mr. Chairman, it seems to me the speaker is giving us information that is good for us to have and it is not going to take us an undue amount of time. I would suggest we allow him to proceed with his presentation.

It seems to me it has a bearing if not directly at least indirectly on this whole question, and certainly anything that will give us light and understanding we want.

Mr. GIBSON: Well, I won't press the point, Mr. Chairman, and if the committee feels that we have the time, I think, as has been suggested, that the information is valuable.

The CHAIRMAN: Do you withdraw your point of order, Mr. Gibson?

Mr. GIBSON: Yes, if the committee so feel they would like to hear it.

The WITNESS: It is also true that many states have observed a twelve-mile rule for the purpose of controlling smugglers. We are convinced that the control of our vital fishery resources beyond three miles from our coast is absolutely essential and that no treaty based on the "three-mile conception" should be ratified by the House of Commons.

The concept of "freedom of the seas" is not synonymous with freedom to exploit the fisheries of the seas. This is obvious from the special decrees of the United States and Mexico in 1945 in which a distinct separation was made.

We do not propose to alter the right of freedom of the seas in respect to navigation, but we do consider it vital to Canada to make it clear to all nations that they are not free to come up to three miles off our coast to exploit our fisheries.

Mr. Bates refers also to the Truman proclamation which we mention in our brief, stating:

Some years ago, in 1945, a proclamation was made by Mr. Truman in the United States, which many people thought amounted to just that: That the United States would declare sovereignty over the high seas adjoining their coasts. Some other nations interpreted it that way, particularly Latin American nations, and they issued a declaration in turn, much more precise than the American. Some of them declared that they would exercise sovereignty zones over from one hundred and fifty to two hundred miles out to sea: that they regarded the zone as territorial waters, and that other countries were to refrain from fishing therein. The United States department was quick to point out to those countries that the United States would not respect any such unilateral declaration of sovereignty over the high seas by any single nation.

We claim that the United States has backed away from the Truman proclamation of 1945 for reasons of national interest. Her more recent statements and views are not always in accord with that statement. As stated by Edward W. Allen in a recent article in the *National Fisheries Yearbook*:

It must be admitted that our Government declined to ask for the simple reciprocal solution demanded by the fishing industry—that the Japanese stay out of our coastal fisheries and we stay out of theirs. Neither is the present proposal in complete conformity with Secretary Hull's communication to Japan, with the presidential proclamation of 1945, or with some modern trends in the interpretation of international law.

Similarly, Mr. Harold Lohken, of Seattle, who was one of the United States delegates at Tokyo made the following statement on his return:

This proclamation backfired somewhat when the Central American countries followed with individual proclamations covering areas two hundred miles offshore.

We are convinced that Canada should not be afraid to make a proclamation of policy simply because a similar proclamation happened to backfire against the

United States. Actually, we are more certain that Canada should follow the example of the Latin American countries in regard to proclaiming our rights over the offshore fisheries adjacent to the Pacific coast.

Mr. Bates goes on to deal with our proposals for establishing a wide conservation zone on the Pacific coast. He says:

Of all the countries bordering the Pacific, Canada has, I think, the shortest shore line. Our shore front is only some six hundred miles on the Pacific; we have only a short water front, compared with the United States, Chili, Russia, Japan, China, and the Philippines. And if the Pacific were zoned on the basis of territorial waters our zone would be one of the smallest. And even if we could zone it, to do so might be unwise, because already our fishermen fish outside that zone.

We say that if compelled to do so we would be quite happy to confine our fishing operations to our six hundred mile wedge provided the United States vessels were kept out. Otherwise if United States vessels are allowed to continue on the basis we have proposed, we should always be able to assert a special right to fish south and north off the coasts of United States and Alaska.

Perhaps the following facts will be helpful to the committee to appreciate our viewpoint.

In any examination of the areas where our fishermen operate, it is immediately obvious that the overwhelming majority of our fishing effort is concentrated on the fishing grounds off our own coast. The halibut fishery is probably the best example since it is the major fishery where Canadian vessels operate off foreign territory which, in this case, is the Alaskan coast. The total Canadian landings during the 1951 season came to 21,466,000 pounds. Of this total, 16,346,000 pounds were taken in Area 2 which is primarily the west coast of Vancouver island, Hecate Strait and the west coast of the Queen Charlottes. Only 5,120,000 pounds were taken by Canadian vessels operating in Area 3, which is off the coast of Alaska. In other words, over 75 per cent of our halibut is taken in waters off our own coast and only 25 per cent elsewhere. When we realize that in 1951 the United States fleets operating in Area 2 landed 14 million pounds of halibut, it is clear that were we to forego our operations off Alaska in return for the Americans staying out of Hecate Strait, we would find it considerably to our advantage.

The salmon section of the industry is carried on almost exclusively either in our own territorial waters or in the off-shore waters adjacent to British Columbia. While we may have the odd troller taking a cruise down off the coast of Washington and Oregon or up off the coast of Alaska, such cases are very few compared to the large number of American trollers which operate off the west coast of Vancouver Island.

In so far as herring is concerned, it is entirely a British Columbia operation with practically no off-shore fishing even off our own coast.

The black cod, ling cod, sole, crab and liver fishing operations are conducted by Canadians primarily off the B.C. coast or in territorial waters. We have had instances of Canadian vessels going after tuna or black cod in off-shore waters off the coast of Alaska or as far south as California. Nevertheless, as will be shown later, the catches taken by Canadian fishermen in U.S. waters are small compared with the catches taken by American vessels exploiting the fisheries off the west coast of Vancouver Island and Hecate Strait.

*By the Chairman:*

Q. What paper are you reading from?—A. I am just reading from a previous analysis made by myself in *The Fisherman*. I am not quoting anyone else here except where I say I am quoting someone else.

Recently a conference was held in the United States under the auspices of the Pacific Marine Fisheries Commission. We had delegates there and some of the things coming from that conference were as follows:

Canadian scientists reported that they consider the waters of Hecate Strait as comprising four distinct trawl grounds, which are fished but little by Canadian vessels.

Pointing further to the use of Canadian off-shore waters by American vessels, they said that 82 per cent of the trawl catch off the west coast of Vancouver Island is made by American boats.

It was also reported to 'Washington trawlers more and more are fishing off the mid-B.C. coast with 45 per cent of the Puget Sound landings now coming from these waters, landed in only 36 per cent of the trips.'

Graphs showed the seasonal shifts in otter trawling operations out of Seattle during the year. It was noted that the late spring and mid-summer operations center largely in the vicinity of Cape Flattery but with the onset of autumn and through the winter the fleet does its fishing well up the coast of British Columbia in the Cape Scott and Hecate Strait area.

Mr. Bates argues that:

. . . it would not have been possible to make an agreement with Japan simply in the terms of saying: you stay off our coast and we will stay off yours.

The reason he gives is that:

She knew that she might have to make similar ones with Russia, China, Korea, Indonesia and Australia. So every clause in this treaty was considered by the Japanese in terms of its possible Asiatic application.

We knew that the Japanese were concerned about the reaction of other Pacific nations to her fishery exploits—past, present and future, but we see no reason for changing or modifying our requests on that account. All the more reason to contact the other nations, to obtain their views, to invite them to help draft the new "Convention for the North Pacific."

Why should we strengthen Japan's hand in respect to Pacific fisheries when we knew, as Mr. Bates has stated:

Of the nations on the Pacific, she was the one most likely to begin fishing on our side.

It would seem to have been far more advantageous to get the support of the other Pacific powers for protection against Japan rather than cut much of the ground out from under their feet.

Mr. Bates states: "There are not a great many fisheries in the world meeting those principles." He is here referring to the principles of the proposed tripartite treaty. Japan must be convinced that practically none of the other Pacific fisheries meet those principles or she would not have agreed with them. It is clear that none of the Japanese fisheries are under "scientific investigation

and regulation," so no abstentions from fishing off the Japanese coast are provided in the treaty. Yet, according to Dr. William C. Herrington, head of the United States delegation at Tokyo:

The coastal fisheries of Japan supply about 85 per cent of her total catch. Why did they not demand protection? Two probable seasons are:

- (a) They had no fear that Canada or the United States would invade Japanese coastal fisheries.
- (b) They intend to expand greatly and did not want to create even that much of a precedent for protection in Asian waters of offshore fisheries.

Dr. Herrington has pointed out that Japan has one and one half to two million fishermen, 450,000 fishing boats, 83 million people in an area smaller than California.

Her coastal waters are crowded with between a quarter and a half a million excess fishermen. She looks to further expansion of her fisheries to do three things—

- (1) Absorb some of the surplus fishermen now crowding coastal waters.
- (2) Provide greater production to reduce the food deficit of the nation.
- (3) Provide additional products for export to supply foreign exchange with which to obtain needed imports.

But we are told over and over again that it would not be profitable for the Japanese to send mother ships to catch cod, flatfish, etc., if they could not take halibut, salmon and herring.

Mr. Bates puts it this way:

A factory ship from Japan could probably make out better and have a more profitable expedition closer to home than off the British Columbia coast. Secondly, our fishing industry now has better protection than it had before; it is no longer possible for the Japanese to come over and fish salmon on the most profitable species; so the danger from Japanese fishing is greatly reduced from what it was before.

We are not so easily convinced that Japanese vessels will stay out because such expeditions are not profitable. Certainly, if it is profitable for fifty to one hundred American trawlers to exploit fisheries off our coast, exclusive of salmon, halibut and herring, it should be profitable for Japanese vessels to do likewise. How long will better and more profitable expeditions be available closer to Japan? We insist on being realistic and on looking to the future.

Here are some illuminating facts quoted from the Commercial Fisheries Review published by the United States Fish and Wild Life Service:

The mothership *Tenyo Maru* (3,689 tons) left Tokyo March 12, 1951, and returned to Japan June 28, 1951. (She) received an estimated total of 4,295,000 pounds of fish, from which was produced: tuna, frozen in round, 2,446,310 pounds; frozen fish fillets, 980,700 pounds; shark, 272,050 pounds; others, 136,570 pounds; total, 3,835,530 pounds. A few boats of this fleet (she had with her sixteen smaller vessels) also transported a small cargo to Japan.

Let us remember that Japanese fishermen work for a fraction of what Canadian and American fishermen require in earnings. In many instances their basic wage or guarantee on such trips is less than \$20 per month on such expeditions.

The types of fish that would be caught by such an expedition to British Columbia offshore waters are quite valuable and worth coming after: black cod or sable fish brings a price to our fishermen of from 14 cents to 22 cents a pound, as compared to 7½ cents to 25 cents a pound for salmon.

*By the Chairman:*

Q. You are not quoting now from the article?—A. No, I am sorry.

Fillets of sole, flounder and grey cod bring good returns to the wholesale fish dealers in Canada and the United States, even though the prices paid to Canadian trawlers are presently quite low. Vitamin oil-bearing livers could be obtained in large volume from the dogfish which abound off our coast. Incidentally, this fishing has been declining as a source of income to Canadian fishermen largely because of cheap imports from several Pacific nations, including Japan.

We simply cannot agree that economic factors will prevent Japanese vessels from coming over to exploit the species which are not included in the doubtful protection of the treaty.

We have also raised some doubts about the effectiveness of the treaty in protecting our salmon, halibut and herring stocks during the ten-year period of the treaty. We pointed out in an earlier statement, copies of which the members of the committee have before them in this four-page supplement which is in the back of the brief—

*By Mr. MacNaught:*

Q. Who prepared this statement?—A. I did.

Q. Your own preparation again?—A. Yes.

—that if Japanese vessels violate the treaty by catching salmon or halibut:

We have the right to seize such vessels but must turn them back to their government for sentence.

We pointed out that we could not logically assume that the Japanese government will impose any real penalties against their fishermen for carrying out what the ruling circles claim is in their national interest—that is, to go further afield for fish she can export for American dollars.

Mr. Bates in reply to a question in this committee stated:

If the Japanese did the things you mentioned it would be a breach of the convention. We have to take it on faith at this stage.

Frankly, we must confess a lack of faith at this stage. We knew that present conservation programs in Japan are almost nonexistent. Where they do exist there is such a welter of confusion between counties that real over-all control is almost impossible. Some of our Japanese-Canadian members (of the union) have told us that:

Japanese fishermen hardly know the meaning of the word 'conservation'. Many types of fish rarely get a chance to fully develop because they are fished out before they grow to full size.

Besides, we have found by experience on the west coast of Canada that only by stiff penalties, including confiscation of fish catches, fishing gear and even boats, have we been able to keep some of our own Canadian fishermen in line. On the other hand, Japanese vessels caught redhanded with halibut or salmon on board, whilst ostensibly fishing for flatfish and cod, would have to be returned, cargo intact, to Japan for trial under the terms of the treaty.

Even a stiff fine, imposed by Japan, would not return the salmon or halibut to Canada except as an export to gain dollar credits for Japan. Furthermore, fines have often proved in our experience to be a mere incentive to try again, as the fines are often less than the value of the catch obtained.

The question by Mr. Applewhaite on page 43 of the proceedings and Mr. Bates' reply only seem to confuse the issue further. Mr. Applewhaite's question and the answer were as follows:

Q. . . if we were to have here provision which would enable Canadian officers to seize Japanese vessels on the high seas and bring them

into Canada for trial, would you not at the same time have to accept that principle in reverse and make our vessels subject to seizure and to be taken to Japanese courts for trial?—A. Yes. The Japanese raised that question during the discussions. They pointed out that they would abstain from the fishing of halibut, salmon, and herring. And then they said that, if we wished to board their vessels, as a corollary they should have the right of boarding Canadian fishing vessels to see if the latter were carrying out the terms of the halibut, salmon and herring regulation; so it would be reciprocal. If we wished to board their vessels on the high seas, they should have the same right to board and arrest our vessels. We, of course, had to take the attitude that Japanese boarding Canadian vessels close to our territorial waters would hardly be a propitious action especially at this particular point of time; and the final determination of article 10 was based, as I said, on considerations both ways.

As I understand the treaty, we have the right under the treaty to board and seize Japanese vessels off our shores if we find they are taking salmon, halibut or herring. The Japanese have no such right to board any Canadian vessel unless we should in future fish off Japan for species we agreed to abstain from. There would definitely be no logical reason why they should ever be allowed to board Canadian vessels off Canadian shores any more than we would have the right to board Japanese vessels off the coast of Japan.

What is lacking is the power on the part of Canada to pass sentence on the violators. We would not fear a reciprocal arrangement where Japan could penalize Canadian fishermen who were caught off the coast of Japan taking fish that provide the means of livelihood for thousands of Japanese fishermen.

Mr. Bates referred several times to the protective proviso in article IV which precludes Canada being asked to abstain from fishing any species from the Gulf of Alaska southward. In fact he claims "It is the most important proviso in the Canadian terms". Unfortunately, this proviso is a double-barrelled affair.

We have already shown that Canada's offshore waters are heavily fished by American vessels, whereas we have not so greatly exploited the offshore fisheries of Alaska and continental United States. By a clause which prevents American abstention off our coasts for any species, we grant the Americans a very great advantage for a doubtful return. They can continue to expand their operations off our coast at will, but we cannot readily complain once this treaty is signed. There are no new areas opened up to Canadian fishermen.

We have always considered it our right to fish off their coasts just as long as they fish off ours. Clarence Strait will not be opened up to us if the treaty is ratified. The Americans consider Clarence Strait as territorial waters and we do not dispute their claim. Nevertheless, we have a right to protest their attitude towards Hecate Strait and Queen Charlotte Sound.

We received no great concessions in Alaskan waters, but we did give up the right to fish salmon in the Bering Sea. This may not be an important loss since we have not fished there to date, but by entering this three-way pact we gave up that right and may have to give up further rights in the same area simply because in that area we have agreed that what applies to Japan also applies to Canada.

Now we are told that we may be prohibited from going there for crab even though Japan will be there, unless we move in a hurry to establish a claim.

Finally, I would like to deal with the question of territorial waters and Hecate Strait. Mr. Bates says this document does nothing to affect our future claim to territorial waters. He says we have already claimed Hecate Strait as territorial waters although we have allowed the Americans to fish there because

of historic right. He assumes that if Japanese vessels attempt to fish there we would take the necessary action and push our claim still harder but—

It would probably involve us in some bilateral agreement with the United States at that point of time.

Why should such vital matters be left until the first Japanese vessel moves into Hecate Strait. Obviously since the convention specifically refers to the convention area as "all waters other than territorial waters of the North Pacific Ocean which for the purposes hereof shall include the adjacent seas," there is need for clarification. Does not Japan assume that what is high seas for the Americans is high seas for Japanese? If the United States refuses to recognize the fifty year old claim of Canada, why should Japan recognize it unless that point is cleared up now?

Mr. Bates' inference that it would involve a treaty with the United States to keep Japan out of Hecate Strait would indicate that Japan will insist that until such time as the United States acknowledges our claim Japan will not do so.

I want to thank the members of the committee for their attention to what I have had to say this morning. Please accept my apologies for what almost amounts to a second brief, but it is hard to condense these matters into a few words although I sat up until 3.00 o'clock in the morning trying to get it as precise as possible.

The CHAIRMAN: I want to thank you, Mr. Stevens, for it, and I presume the transcript of your notes will be available for the reporter because I feel sure he could not get it all down accurately at the speed at which you were giving it. I understand there are a few questions that will be asked you.

*By Mr. MacNaught:*

Q. Mr. Stevens, isn't your whole statement based on the premise that Canada should not recognize the three-mile limit?—A. I would say that a very important part of our presentation was based on that premise.

Q. Now, second, doesn't the convention leave this question open to future declaration of policy in accordance with any new principles of international law?—A. Well, as we see it, the treaty does state that matters such as territorial claims shall be left open. At the same time, as I have pointed out—

Q. That is the answer, it leaves it open?—A. Well, our feeling is that while it leaves it open, it also does not—it leaves the question open that Japan can go to within three miles at this time, but we say we should clarify that point before we sign such a treaty.

Q. Well, you admit that the convention leaves that question open to future declaration of policy in agreement with any new principles of international law which might be enunciated in the future?—A. Yes, I think so.

The CHAIRMAN: Does any other member wish to address a question to Mr. Stevens?

*By Mr. Catherwood:*

Q. Mr. Chairman, I would like to ask Mr. Stevens one question. The signatories under this representation, Appendix I to your brief, the Salmon Cannery Operating Committee and so forth—five altogether, were any of that group ever at any time associated with the Fisheries Council of Canada?—A. So far as I know the Salmon Cannery Operating Committee was the only organization affiliated.

Q. And are they still affiliated with the Fisheries Council?—A. Well, they have changed their name now to the Fisheries Association of British Columbia but they are still affiliated.



*By Mr. Blackmore:*

Q. I wonder if Mr. Stevens has made any specific recommendations in respect of changes that he would consider beneficial in the treaty before we accept it? As it is, if we can get these other two parties, Japan and the United States to agree to the treaty, we would be a good deal better off. Now, has he suggested or can he suggest some specific changes which he thinks would improve the treaty and be acceptable to these other two countries?—A. Well, I am afraid I cannot do that because we oppose the whole basic theory of the treaty, that is, it recognizes Japan's right or if it is referred to later it could recognize any other nation's right to come within three miles of our shore and fish for various species of fish and only by voluntarily abstaining does Japan not take salmon, herring and halibut. We originally proposed a far different type of treaty in which we would simply say to Japan that she should stay out of our coastal zone, our offshore waters and we would do likewise in her case. We are opposed to the basic tenets, if you like, of the proposed treaty.

*By Mr. Gibson:*

Q. You would rather have no treaty than this one?—A. Yes.

Q. Would you concede that there is 92 per cent of the value of our present catch covered under this treaty that it is protected in herring, salmon and halibut?—A. I would concede that they are protected for a matter of five years definitely and for ten years probably. After that time by having signed this treaty we acknowledge their right to come here. If the treaty should be cancelled they are in position to do so by virtue of that fact that we have recognized their right.

Q. Why have we recognized their right by virtue of signing this treaty? Supposing it lapsed in 10 years, aren't we in about the same position as we are now on the treaty?—A. Well, have set out certain principles here in which the nations only voluntarily abstain and they can only voluntarily abstain for certain reasons and they must agree on these reasons so they can be required to abstain. If they say after 10 years: "Well, we may still agree with the general principles but we do not agree these fisheries come under that, therefore we cancel this treaty."

Q. That is the position they are in now. We have talked about Japan coming into our coastal waters—not our territorial waters but off our coast, we have talked about that possibility for many years and they have never come and I would imagine there is no reason that they should any more come in now than they have in the past?—A. Well, we think that by signing this treaty, that while it does not say in the treaty that there is an open invitation certainly there is an incentive for them to come in order for them to establish the rights which we offer them to fish for cod, sole, black cod and so forth and possibly later the opportunity of coming over for the other species as well.

Q. I still believe that if the treaty expires that we cannot be in any worse position than we are now. After all, it may be very desirable for us to go over there and tell anybody, either the Japs or the Americans what we want them to do, but after all it takes two people to make a bargain and in this case it takes three people and it is not possible for Canada or the United States to go and tell a sovereign nation what they are going to do?—A. No, but at the same time we did not have to agree to a tripartite treaty in the first instance. We could have started negotiations with Japan bilaterally. We had proposed that before we signed the Peace Treaty with Japan. We had requested a clause in there which would give the protection we required. It was not done although Japan in the Peace Treaty at least agreed that she would go into that.

The CHAIRMAN: I think that was covered by the Honourable Mr. Mayhew in the House of Commons.

*By Mr. Blackmore:*

Q. Mr. Chairman, in the main I think Mr. Stevens would probably agree that his position is rather more negative than positive?—A. Is that a question?

Q. You would agree to that, would you not?—A. No, we think that our position is far more positive. We say: "Define our rights and insist on establishing a conservation for our coast and do not agree to the principles which are laid down here which are dealing all our off-shore fisheries not only to the Japanese but other nations who may want to come in".

The CHAIRMAN: Are there any other questions before we continue with the other matters on the agenda? There being no other questions, I would like to express the thanks of the committee to you, Mr. Stevens.

The WITNESS: There was one request I would have liked to have made if it is in order. I brought some extra copies of the printed matter in the back of the brief with me, and I wondered if it was possible to have them distributed to members of the House.

The CHAIRMAN: I think, Mr. Stevens, that it is simply a matter for you to mail them if you wish to the members of the House of Commons.

I would like to say, gentlemen, that the clerk of the committee has received a joint brief which came in this morning from the Fishermen's Co-operative Associations in Vancouver and Prince Rupert listing objections to the treaty; also a telegram from them endorsing the brief of the United Fishermen and Allied Workers' Union which I will ask the clerk to read to the committee. I think about 50 copies were submitted of this brief, and I think if they were distributed to the members of the committee, probably they could be taken as read and incorporated in the evidence if that is satisfactory to the committee.

Agreed.

Mr. PEARKES: Will there be an opportunity to ask any questions based on this brief?

The CHAIRMAN: I might say there is no one appearing for this brief, but it has been sent to the clerk of the committee with a request that it be distributed to the members. No doubt, of course, after the statements in the brief have been considered by the members of the committee it will be in order for this brief to be discussed at a meeting later of the committee before we make our final report to the House of Commons. That probably will be sometime next week because we have also Mr. Bates who will be available for questioning again later, and no doubt any remarks which members of the committee wish to make on these briefs will be taken up at a later meeting. Does that answer your question, Mr. Pearkes?

Mr. PEARKES: Mr. Chairman, I suggest this should be read. It would be better if we read it now rather than file it. There are others here who are attending this committee who are not members of the committee. For instance, the deputy minister; he might like to hear what is in this.

The CHAIRMAN: I think in answer to General Pearkes that the practice is that if a delegate appears before the committee that he reads the brief which he presents. Otherwise, it is distributed and printed in the evidence. I asked a while ago if that was agreeable and I understood it was agreeable. If, however, you wish it read and if no one objects, well, the only thing would be to have it read.

Mr. PEARKES: It would only take about five minutes.

Mr. FULFORD: Let us have it read.

The CHAIRMAN: Do you move that it be read, General Pearkes?

Mr. PEARKES: I do.

The CHAIRMAN: It has been moved by General Pearkes and seconded by Mr. Fulford that the brief be read. Those in favour please say aye; those opposed?

Carried.

The CLERK:

### FISHERMEN'S CO-OPERATIVE ASSOCIATION

BRIEF RE OBJECTIONS TO PROVISIONS OF PROPOSED TRIPARTITE FISHERIES AGREEMENT BETWEEN CANADA, JAPAN AND THE UNITED STATES, SUBMITTED TO A. SMALL, CLERK OF THE STANDING COMMITTEE ON MARINE AND FISHERIES, MAY 26TH, 1952

The Fishermen's Co-operative Association and the Prince Rupert Fishermen's Co-operative Association, representing four thousand active fishing members on the west coast of British Columbia, in meetings during February and March, 1952, took exception to the terms, as then known, of the proposed Fisheries Agreement on the grounds:

(1) That it did not provide for sufficient protection of fish caught in those waters historically fished by Canadian fishermen from the encroachment of the fishermen of other nationalities, and

(2) That it failed in establishing a pattern that could provide for continued peaceful relations in north Pacific waters.

The following resolution was passed at the Annual Meeting of the Fishermen's Co-operative Association of February 25th to March 1st, 1952:

That we recommend that our organizations exert all efforts to bring to the attention of the members of Parliament and the general public, the opposition of the fishermen to the proposed Treaty.

Prince Rupert Fishermen's Co-operative Association and Fishermen's Co-operative Federation have passed resolutions of a similar nature.

The reasons underlying their objections follow:

1. That it did not provide for sufficient protection of fish caught in those waters historically fished by Canadian fishermen from the encroachment of the fishermen of other nationalities:

- (a) The annex of the agreement provides for the abstaining from fishing by Japanese nationals of only three species of fish in waters adjacent to Canada's Pacific coast. These species, halibut, herring and salmon, while representing three of the main species prevalent on the coast, do not, by any means, represent all of the major species at present being fished. Bottom fish of all kinds, crab, and those species fished for their liver alone may, under the terms of the Agreement, be fished on the off-shore waters by the nationals of Japan. Indications are that the stocks of these fish are at present suffering some depletion and the operation of additional vessels on these species would hasten depletion. It is wholly practicable for a mother ship, with filleting and processing aboard, to operate from bases in Japan along with fishing vessels, in waters adjacent to Canada's Pacific coast.
- (b) The annex, at the same time, by recognizing the right of American vessels to fish these three species in waters adjacent to Canada's Pacific Coast, offers an invitation to American vessels to engage in catching of salmon and herring off the British Columbia coast, a fishery that they have not, up to the present time, considered free to engage in.

In turn, Canadian vessels are given the continued rights to fish waters off the Pacific coast of the United States. However, with the exception of the albacore species, Canadian vessels have not found it profitable in the past, to engage in any extensive fishing in the waters off the American coast.

- (c) Article III, section 1 (a) offers the only guarantee that the abstention from the fishing of these three species will continue in effect and that for only a period of five years.
- (d) Article IV, section 1 (b), subsection (iii), clause 1 states that "no recommendation shall be made for abstention by a contracting party concerned, with regard to any stock of fish which, at any time during the twenty-five years next preceding the entry into force of this convention, has been under substantial exploitation by that party, having regard to the conditions referred to in section 2 of this article", which, in effect, would allow for the continued fishing, regardless of the quantity available of any species fished at any time within that period by any national of the contracting parties.
- (e) Article X, section 1 (c) provides that "only the authorities of the party to which the above-mentioned person or fishing vessel belongs may try the offense and impose penalties therefor." A contracting party not applying the terms of the agreement in good faith, could hereby have a clear opportunity to encourage its nationals to ignore the terms of the agreement and encroach upon the fishing privileges of the nationals of other parties.

2. That it failed in establishing a pattern that could provide for continued peaceful relations in north Pacific waters.

The exclusion of the other nations on the Pacific, from the agreement, in itself defeats the objectives listed above.

#### General

The British Columbia fishing industry, when the matter of fisheries relations with Japan were discussed in May, 1951, was unanimously agreed that a fisheries agreement with Japan should be concluded simultaneously with the signing of the peace treaty and further that such an agreement should exclude the fishing vessels of Japanese nationals from operating in the offshore waters adjacent to the British Columbia coast and, in return, exclude the fishing vessels of the Canadian nationals from operating in offshore waters adjacent to the coast of Japan. A zoning principle was unanimously advocated. As recently as November, 1951, the industry still concurred in this position and in the further position that a tripartite agreement, because of the complicated nature of the issues involved, was not in the best interests of Canadian fishermen but that agreements between Canada and Japan and the United States and Japan should be concluded separately and that any divergence in interests between American and Canadian fishing rights and privileges should be resolved if necessary by agreement between Canada and the United States. Our membership have not changed their conviction on this basic premise.

The CHAIRMAN: Thank you very much, Mr. Small. The letter covering this brief reads as follows:

Mr. A. Small,  
Clerk of the Standing Committee,  
Marine and Fisheries Department, Ottawa, Canada.

Dear Sir:

Please find enclosed fifty copies of brief, presenting the views of the Fishermen's and Prince Rupert Fishermen's Co-operative Associations, re Japanese Fishery Agreement.

Would you please distribute these briefs to members of the standing committee.

Yours very truly,  
Fishermen's Co-operative Association.  
Karl Dybhavn,  
Secretary-Treasurer.

With regard to the telegram, gentlemen, this is a night letter sent from Vancouver, British Columbia, on May 28, 1952, to Mr. A. Small, the clerk.

"Further to our brief of May 26 regarding opposition to ratification of Japanese fisheries treaty we have today had opportunity to consider United Fishermen Allied Workers Union brief same subject. We fully endorse the views expressed by the union and respectfully request careful consideration of this important matter and hope the committee's recommendations to the House of Commons will be in line with these views. (Signed) Fishermen's Co-operative Association, Carl Dybhavn, Secretary-Treasurer."

Now, Mr. Catherwood asked a question, I think Mr. O'Brien, who is here from the Fisheries Council of Canada, might possibly answer that question for you, and I presume it is satisfactory to the committee that we call Mr. O'Brien.

Mr. O'BRIEN: I think all I need say in reply to that question, Mr. Chairman, is that I think Mr. Stevens has already answered it and answered it correctly.

The CHAIRMAN: Thank you, Mr. O'Brien.

Mr. Bates is here for further questioning. Is the committee satisfied now to hear Mr. Bates, if he wishes to address the committee?

Mr. Bates.

**Mr. Stewart Bates, Deputy Minister of Fisheries, called:**

The CHAIRMAN: Is there any member of the committee who wishes to address any questions to Mr. Bates at this time?

Mr. GIBSON: Mr. Chairman, I wonder if it might be useful to the committee if I were to ask Mr. Bates to reply to this summary of objections to these various aspects of the treaty that have been listed in Mr. Stevens' brief? They start on page 15 and go along to page 17 of his brief. I wonder if Mr. Bates would care to go over these point by point for our information.

The CHAIRMAN: Mr. Bates, would you be prepared at the present time to answer these objections or would you rather have further time to consider them? We realize that this brief was presented here only yesterday and I am not sure whether or not you have had sufficient time to go into the matter to deal with the question put forward by Mr. Gibson at this time. We could possibly leave it to a later date.

The WITNESS: Well, sir, it is always a helpful procedure. The brief was just given yesterday and again this morning. If the committee were disposed to give me that time I should be happy to have it.

Mr. GIBSON: That is all right with me.

The WITNESS: It would give me more time in which to prepare myself; but we could proceed this morning.

Mr. GIBSON: Time is not so essential, is it, Mr. Chairman? I was just thinking that the committee would like to have the considered views of the deputy minister on these points.

The CHAIRMAN: Yes. I think it would be better myself if a certain length of time should elapse so that we could all have an opportunity to go into the arguments which have been advanced in the brief presented to the committee. We will be meeting again next week. I do not think that an opportunity will be afforded for us to meet again this week. Is that satisfactory to you, Mr. Gibson?

Mr. GIBSON: Quite satisfactory.

The CHAIRMAN: Would the committee decide the time of its next meeting?  
(Discussion as to procedure)

The CHAIRMAN: The motion is that we adjourn until Thursday next at 11.00 o'clock a.m.

The committee adjourned.









HOUSE OF COMMONS

Sixth Session—Twenty-first Parliament, 1952

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STANDING COMMITTEE

ON

# MARINE AND FISHERIES

*Chairman:* T. G. W. ASHBOURNE, Esq.

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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

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THURSDAY, JUNE 5, 1952

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Draft International Convention for the High Seas Fisheries of the  
North Pacific Ocean.

## WITNESSES

Mr. Stewart Bates, Deputy Minister, Department of Fisheries;  
Mr. J. P. Erichsen-Brown, Legal Division, Department of External Affairs;  
Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries.

U.S. DEPARTMENT OF COMMERCE

STATISTICS COMMITTEE

ON

# MARINE AND FISHERIES

COMMISSIONER OF COMMERCE

REPORT OF THE COMMITTEE ON

PROCEEDINGS

HELD AT WASHINGTON, D.C.

IN CONNECTION WITH THE INVESTIGATION OF THE  
FISH AND MARINE INDUSTRIES OF THE UNITED STATES

1907

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1907

## MINUTES OF PROCEEDINGS

THURSDAY, June 5, 1952.

The Standing Committee on Marine and Fisheries met at 11.00 o'clock a.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs. Applewhaite, Ashbourne, Bennett, Black (*Cumberland*), Bryce, Catherwood, Gibson, Gillis, Kirk (*Antigonish-Guysborough*), Macdonald (*Edmonton East*), MacNaught, McLure, Mott and Stuart (*Charlotte*).

*In attendance:* Mr. Stewart Bates, Deputy Minister, and Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries; Mr. J. P. Erichsen-Brown, Legal Division, Department of External Affairs.

The Chairman presented and read the Third Report of the Sub-Committee on Agenda and Procedure, as follows:

Your Sub-Committee on Agenda and Procedure met on June 4 and has agreed to present the following as its Third Report:

Your Sub-Committee has considered the following communications:

1. Letter dated May 30, from Mr. Pearkes, addressed to the Chairman, recommending that the matter of defining the limitations of Canadian territorial waters on the Pacific Coast be referred to the Standing Committee on External Affairs.
2. Letter dated June 2, from Mr. Homer Stevens, Secretary-Treasurer, United Fishermen and Allied Workers' Union, Vancouver, B.C., addressed to the Committee, giving a supplementary statement concerning B.C. organizations, and a list of such organizations, who purportedly passed resolutions endorsing the U.F.A.W.U.'s opposition to the proposed treaty.

Your Sub-Committee has agreed to recommend thereon as follows:

1. That the Chairman be empowered to call a competent official from the Department of External Affairs to answer questions with regard to territorial waters on the Pacific Coast.
2. That the supplementary statement of the United Fishermen and Allied Workers' Union, contained in its letter of June 2, should not be incorporated in the record.

All of which is respectfully submitted.

T. G. W. ASHBOURNE,  
*Chairman.*

The Chairman read Mr. Pearkes' letter of May 30, copies of which were distributed to members present.

The letter from the United Fishermen and Allied Workers' Union of June 2 was read "off the record" by the Clerk of the Committee. It was agreed that this letter be distributed to Committee members as soon as additional copies are received from that organization.

On motion of Mr. Macdonald (*Edmonton East*),

*Resolved,*—That the Third Report of the Sub-Committee on Agenda and Procedure be now concurred in.

The Chairman read a night letter, dated June 4, from the Native Brotherhood of British Columbia, addressed to the Clerk of the Committee, endorsing the brief of the United Fishermen and Allied Workers' Union and urging Canadian control and regulation of offshore fishing beyond the 3-mile limit.

Mr. Bates was recalled and gave evidence in reply to evidence submitted by the United Fishermen and Allied Workers' Union, and was questioned thereon.

Mr. Erichsen-Brown and Mr. Ozere were called and gave evidence with regard to the matter of defining territorial waters on the Pacific Coast, and were questioned thereon. Mr. Erichsen-Brown, by leave of the Committee, placed on record an extract from The Customs Act together with a schedule to that Act (*See Appendix "A" to this day's Evidence*), copies of which were distributed to Members present.

The witnesses retired.

The examination of witnesses having been concluded, the Chairman reminded the Committee that the business now remaining consisted of an article-by-article consideration of the proposed treaty and the Committee's Final Report to the House on the treaty, which would comprise the agenda of the next meeting.

At 12.40 o'clock p.m., the Committee adjourned until 11.00 o'clock a.m., Tuesday, June 10.

A. Small,  
*Clerk of the Committee.*

## EVIDENCE

THURSDAY, June 5, 1952, 11:00 a.m.

The CHAIRMAN: Order, gentlemen. We have a quorum. I would like to welcome Mr. Bryce here this morning as a member of the committee. He is being substituted for Mr. Herridge. We are very sorry that Mr. Herridge could not continue with us, but we are glad to have Mr. Bryce in his stead.

I would like to ask the members of the committee this morning if they would raise their voices to this level so that the reporter will be able to hear what is being said. As we all know, this is a very large committee room and it is not easy for the reporter to hear the remarks of the members of the committee unless they are loud enough to be heard.

I have the honour to present the third report of the sub-committee on agenda and procedure as follows: (*See today's Minutes of Proceedings*).

In this regard, gentlemen, I would like the clerk of the committee to distribute copies of General Pearkes' letter, and I think it would now be in order for me to read it. The letter reads as follows:

OTTAWA, May 30, 1952.

T. G. W. ASHBOURNE, Esq., M.P.,  
Chairman, Standing Committee on Marine and Fisheries,  
House of Commons, Ottawa.

Dear Mr. ASHBOURNE—Owing to a previously accepted engagement, I am afraid it will be impossible for me to attend the meeting of the Standing Committee on Marine and Fisheries which you have called for June 5th. I would, therefore, like to suggest that the Committee give consideration to a recommendation I should like to make, namely, the desirability of defining the limitations of Canadian territorial waters on the Pacific coast be referred to the Committee on External Affairs.

As you will recall, Mr. Stewart Bates, Deputy Minister of Fisheries, when giving his evidence before the Committee on the Draft International Convention for the High Seas Fisheries of the North Pacific Ocean, stated (p. 14 of Minutes No. 1)—“I think the essence of the problem relates to the fishing resources on the high seas”. In subsequent paragraphs Mr. Bates explained the methods used by various countries in defining territorial waters.

In the Brief submitted by the United Fishermen and Allied Workers' Union, the practice followed by the various countries in defining their territorial waters was further discussed. It would seem desirable that the matter of defining the territorial waters of Canada, particularly on the west coast, be taken up by the Committee on External Affairs at the earliest possible opportunity.

If, in the definition of our territorial waters, the same method as was recently adopted by the Norwegian government, and approved on December 18, 1951 by the International Court of Justice, was followed a base line would be drawn from which the belt of the territorial waters would be reckoned. The geographical realities of the British Columbian coast line would lead to the conclusion that the relevant line might not be on the mainland but, starting from a point on the international

boundary in Dixon entrance, would follow the line of the west coasts of the Queen Charlotte Islands and Vancouver Island. If the waters within this zone were declared territorial waters, then the greater portion of the Dixon entrance, Hecate Strait, Queen Charlotte Sound and the Straits of San Juan would be included in this zone.

Obviously the historical rights of United States vessels to fish the waters of Hecate Strait would be recognized, but a declaration by Canada now, that she claimed these seas as territorial waters, would eliminate the possibility of other countries establishing a claim to the valuable fishing resources in these waters.

It would be very much appreciated if this proposal might receive the consideration of the Committee.

Yours sincerely,

(Sgd.) GEORGE R. PEARKES

Gentlemen, this third report of the subcommittee is before you.

Mr. MACNAUGHT: Mr. Chairman, as one of the members on the steering committee I think it advisable to tell the committee the basis of our reasons for rejecting the request of Mr. Pearkes. In the first place it is not within the competence of this committee to recommend any matter to another committee; that can only be done by the House of Commons. For that reason we thought it desirable to bring a witness to this committee who may be able to help us on that point.

In connection with the request of Mr. Stevens, that letter enumerated a large number of small unions in British Columbia. There was no evidence in that letter that we could accept before this committee that any of those unions had agreed to the resolution, except the statement of Mr. Stevens, and we thought it would be creating a dangerous precedent if we should put on the record unsubstantiated statements that certain unions or associations had agreed to a certain policy.

Mr. APPLEWHAITE: Mr. Chairman, I think it should be added that 50 copies of that letter are going to be available, and will be distributed to the members of the committee. I think that was understood.

The CHAIRMAN: Yes. I might say in reply to your remark, Mr. Applewhaite, that they have not yet come to hand, but when they are received they will be sent to the members of the committee.

In this regard I would like to have the Clerk read the letter from Mr. Stevens, off the record.

*(Letter read off the record.)*

The CHAIRMAN: Gentlemen, you have heard the letter which has been read off the record by the clerk from Mr. Stevens dated June 2. I might say in this connection that another reason that was considered in the subcommittee, as to whether or not the supplementary statement of Mr. Stevens should be contained and incorporated in the record, was the fact that there would be no one present today to answer any further questions on this letter.

Now, gentlemen, a motion for concurrence of this report is in order.

Mr. MACDONALD: I move that.

The CHAIRMAN: It has been moved by Mr. Macdonald that this third report of the subcommittee be now concurred in. Can I have a seconder for the motion?

Mr. GILLIS: Yes.

The CHAIRMAN: Any discussion?

Those in favour? Against?

Motion carried.

I would like to say that Mr. Small, the clerk of the committee, this morning received this night letter from Vancouver, British Columbia, dated June 4:

A. Small, Secretary,  
Standing Committee on Marine & Fisheries,  
House of Commons, Ottawa.

Please inform committee that our organization endorses request made in brief of United Fishermen and Allied Workers' Union to oppose ratification of fisheries treaty with Japan and to urge proclamation of Canadian right to control and regulate offshore fishing in our coastal waters beyond the three mile limit which is not mandatory under international law.

Native Brotherhood of British Columbia  
William Scow Director Daniel Assn.  
President.

Gentlemen, we have with us this morning Mr. Stewart Bates, Deputy Minister of Fisheries, to reply to evidence submitted by the U.F.A.W.U., and also to answer any questions which the members of the committee wish to submit to him. We have Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries; and also Mr. Erichsen-Brown, legal adviser, Department of External Affairs. Mr. Ozere and Mr. Erichsen-Brown are here to answer questions with regard to territorial waters on the Pacific coast. If it is your desire I would ask Mr. Bates to come forward please to the table, and perhaps Mr. Ozere and Mr. Erichsen-Brown would also like to come up here to be available.

**Mr. Stewart Bates, Deputy Minister, Department of Fisheries, called:**

The CHAIRMAN: Mr. Bates, we are glad to have you with us again this morning, and in this connection perhaps you would like to make a statement first to the committee. If so, we would be glad to hear you.

Mr. GILLIS: Mr. Chairman, I wonder if he would include in that statement the practicability of the proposal made by General Pearkes in regard to defining the offshore waters on the British Columbia coast.

The WITNESS: It has not come to me, but I will be glad to do what I can with it.

In the earliest consideration between the fishing industry and the government of a possible Japanese treaty, the industry stated its position as follows:

We therefore request the Government of Canada to take steps to see that in a treaty of peace with Japan or in a protocol or other concurrent document, suitable provision be made to ensure that the Japanese fishermen stay out of the fisheries of the northeast Pacific ocean which we, in some cases jointly with the United States, have conserved and developed.

*(Quoted in Appendix 1 of Mr. Stevens' brief to the Committee, page 76 of this Committee's minutes.)*

The present treaty does just that. It contains an undertaking from Japan that their fishermen will stay out of the fisheries we have conserved and developed and it recognizes that this applies in the case of salmon, halibut and herring, which together make almost nine-tenths of the present raw material of the British Columbia fishing industry.

Mr. Stevens' brief suggests that another means should have been taken to the same end. He suggests that a new government policy should be pro-

claimed to extend the boundaries of our territorial waters. He recommends that the baseline for fishery protection should be not less than nine miles from our shores and more than the width of the continental shelf.

In cross examination by members of this Committee, Mr. Stevens finally admitted that the proposed convention leaves the question of territorial waters open for any future declaration of policy our government might make. In that he was correct. The treaty deals solely with protection of fish on the high seas. Should the government wish now or in the future to declare a new policy on territorial waters, they could do so. There can be, in other words, both a treaty for the high seas and a declaration on territorial waters if the government so wishes. As a civil servant, the committee will not expect me to comment on government policy.

On the question of territorial waters, Mr. Stevens in his brief makes some suggestions on which comment may be necessary for the purposes of the committee. International law does recognize different historic practices in measuring territorial waters in different areas. In our country, however, we have for many, many years used, broadly speaking, the three-mile limit.

Mr. Stevens quoted certain distinguished lawyers who have commented on the three-mile and other rules. (These are on page 80 and follows of this committee's minutes.) The committee will understand that Mr. Stevens was merely quoting the opinions of certain writers who were advocating new concepts. Until such concepts were recognized and acceptable they would not, however, constitute international law.

I understand however that the committee is bringing before it the legal experts of the government and that it will have, therefore, expert witnesses on this matter.

The committee asked me to comment on the objections to the treaty as summarized on Page 15 of Mr. Stevens' brief (and printed on page 56 of this committee's minutes). Each of the ten paragraphs are quoted below with a comment on each:

1. The first paragraph contains the basic views of Mr. Stevens and most of his other statements are the natural outcome of these views. These views of his are generally based not on international law as it is, but on law as Mr. Stevens would like to see it. When it suits his case, Mr. Stevens reverts back to law as it is, but in these paragraphs he discusses law as he would like it to be.

His first paragraph reads: "It acknowledges the right of Japanese vessels to fish in our coastal waters when there is no compulsion under international law to do so and no background of historic custom in these waters to necessitate any negotiation on the matter". The joker in this paragraph is the term "coastal waters". If by coastal waters he means territorial waters, his argument is obviously wrong. The treaty does not give anyone the right to fish in our territorial waters.

If by coastal waters he means high seas, his statement has no relation to the rule of law as it now exists. His statement would then read, "It acknowledges the right of Japanese vessels to fish in the high seas when there is no compulsion under international law to do so". There is no international law denying any nation the right to fish in the high seas. If Canada does not sign this treaty, international law on the high seas will remain as it is, and the Japanese will have the same rights as anyone. But if the treaty is signed, Japan agrees to abstain from the use of some of these rights.

Mr. Stevens is aware of international law as it is, and he uses it when he thinks fit. On page 89 of your minutes, referring to the proviso in the treaty that leaves Canadian fishermen free to fish any species under any conditions from the Gulf of Alaska southwards, he says, "however, it should be pointed



out that it is not because of this proviso, or because of the treaty that Canadian fishermen are free to enter fisheries they have not up to now used. Without the treaty we would be free from the Gulf of Alaska southward or northward to enter any fisheries we have not hitherto used provided we stay out of the territorial waters of the United States". Here Mr. Stevens is correct. He is stating the situation as it exists. Without the treaty, however, the Japanese fishermen would have the same rights—a point Mr. Stevens does not mention. Under existent law we each have the same rights. But after the treaty is signed, with Japan abstaining from the use of certain rights, the proviso clause continues to give Canadians these rights. That is why the proviso is important. Once we enter treaties that contain waivers of existing rights, clauses like this one that retain present rights gain a new significance.

Mr. Stevens' second paragraph reads as follows:

2. It accepts as a supposed favour what should be proclaimed as a Canadian right, namely abstention by Japan from fishing for salmon, halibut and herring in our coastal waters. But on this basis the supposed protection is illusory because there is no assurance of its continuation beyond 10 years and every likelihood of future demands for further concessions for every temporary renewal.

The first part of that statement made by Mr. Stevens refers to his belief that a new Canadian policy should be enunciated extending our territorial limits out further into the high seas. A comment has been made on that above. His second sentence however, seems to be out of keeping with the first. Now his complaint about the treaty is that its duration is not long enough and he is worried because there is no assurance of its continuation beyond ten years.

Mr. Stevens' third paragraph reads as follows:

3. It immediately invites fishing in our coastal waters by Japanese vessels for every species of fish other than salmon, halibut and herring, including flatfish, cod, rockfish, tuna, shellfish (shrimps and crabs), dogfish, whales and sharks.

Without the treaty the Japanese can fish any species on the high seas in to our or any other country's territorial limits. With the treaty they agree to abstain from fishing almost nine-tenths of our present raw material supplies. They can fish for these other species mentioned by Mr. Stevens, but the treaty protects the basic conserved and developed species.

Mr. Stevens' fourth paragraph reads as follows:

4. There is every reason, if the treaty is ratified, to anticipate acceptance of the invitation because a theoretical right becomes assured only by its exercise; because under the treaty no party can be asked to waive its right to fish a resource if it is exploiting that resource itself on a substantial scale; and because restriction on Japanese fishing vessels by other countries in the Pacific will intensify the pressure on waters not previously frequented.

Here Mr. Stevens is afraid the Japanese may come to the Eastern Pacific. If the Japanese do come to our side to fish, it will not be because of the treaty. It will be, as Mr. Stevens himself suggests, because economic necessity drives them to fish more distant waters. It was because of this possibility that the treaty was made. Yet in answer to a question by Mr. Gibson (*page 111 of this committee's minutes*) Mr. Stevens said he would prefer no treaty.

In this connection members of the committee should note carefully Mr. Stevens' general proposal. He recommends instead of the treaty and extension of territorial waters out to nine miles at least. Outside that zone the Japanese

would be free, under his proposal, to fish for *any* species—salmon and all others. But both Canadian and American fishermen are increasingly fishing offshore. To take only one instance, namely on the Swiftsure Banks off Juan de Fuca Straits, the seiners are beginning to make large salmon catches. But Swiftsure Lightship is only nine miles from shore. Even the edge of the continental shelf which he recommends as the outer limit of Mr. Stevens' zone is not very far beyond that light. The Japanese are excellent high seas fishermen. Under his proposal they could fish salmon and halibut just off areas where our fishermen are now fishing. We could do nothing then, under his proposal, not even board a Japanese vessel anywhere in the eastern Pacific high seas. But under the treaty they agree not to fish salmon, halibut and herring anywhere in the eastern Pacific. If they do fish other species just outside our territorial limits, we have the right to board them even on the *high seas* and to police their actions. Under Mr. Stevens' proposal we would not gain that right given by the treaty.

Mr. Stevens would hope to provide protection to our fishermen by extending our territorial waters. That would be all right if the fish would stay in them. But the salmon and halibut roam far to sea. The committee should remember too the revolutionary techniques now being found for catching fish on the high seas. The treaty tries to face up to this problem and to find a means of protecting our main species *anywhere* in the high seas and not just on the rim of our own continent.

The treaty provides protection for salmon, halibut, and herring 4,300 miles outwards into the Pacific.

Mr. Stevens' fifth objection to the treaty is as follows:

5. Any addition to the list of species on the "abstention" list for any signatory to the treaty is not to be expected because each signatory has a veto in this regard.

Additions to the lists of species on the abstention list may not be many. A species has to meet the three principles—scientific conservation, regulation and full utilization—before they merit consideration.

His sixth objection reads as follows:

6. There is no definition of Canadian territorial waters and no recognition as to the status of Hecate Strait as Canadian territorial waters in the treaty. Japan under the treaty may therefore send trawlers into the Hecate Strait and claim on the basis of the treaty equal rights with the United States.

In the first sentence here Mr. Stevens is right. The treaty does not define territorial waters and it would have been very unwise to have tried to do it in a treaty of this kind. In the second part he is in error when he says Japan may send trawlers into Hecate Straits. Hecate Straits are territorial waters in which Americans have been given special privileges. It does not follow that Canada would permit entrance of any other foreign fishermen to Hecate Straits.

His seventh objection reads as follows:

7. Under the treaty Canada agrees to abstain from fishing salmon in the Bering Sea but the United States is not bound to abstain from any area or species.

This statement is not quite right either. Mr. Stevens said Canada agrees to abstain from fishing salmon in the Bering Sea. We agreed to abstain from fishing salmon to the eastward of the 175th meridian. The remainder of the Bering Sea is open to Canadian fishermen for the catching of salmon or any other species.

His eighth objection reads as follows:

8. There is no justification for any of the glowing phrases that this treaty will usher in a new era of international co-operation in the Pacific fisheries. On the contrary

(a) no other Pacific countries were consulted or invited to participate in the drafting of the treaty;

(b) there is no reason why other countries in the Pacific should wish to adhere to this treaty and in any case no provision in the treaty itself for other countries to become participants in the proposed International North Pacific Fisheries Commission. Resolution III of the Conference states merely that "the Conference recommends that, in negotiating with other Governments in respect to problems similar to those covered by this Convention, the contracting parties shall give full consideration to the spirit and intent of this Convention."

It is true that other Pacific countries are not invited to participate in this treaty. Their interests are very varied and these could hardly be embodied in a single treaty at this time.

His ninth objection reads as follows:

9. The consequence of this situation is that ratification of this treaty by Canada is not only contrary to our national interest but cuts us off from other countries in the Pacific whose condition and interests are more in harmony with our own.

Mr. Stevens alleges that this treaty cuts us off from other countries in the Pacific whose conditions and interests are more in harmony with our own. I do not know to which countries he refers. The treaty certainly covers our closest neighbour, the one with whom we have most joint interests in fisheries, the United States.

His tenth objection reads as follows:

10. The really unique feature of this proposed treaty is that Japan would become a member of a tripartite Fisheries Commission empowered to investigate fisheries in our coastal waters in which she has never previously participated.

There is no justification for this novelty and every reason to anticipate that such investigation will provide valuable information for future participation.

To regulate our Fraser River pink runs or to conserve bottom fish off our West Coast, we would need, not merely to negotiate directly with the United States but await investigation and recommendation by the new International Commission, with Japan as the third member.

The likelihood of an effective program of conservation prior to the depletion of any resources is lessened and not enhanced by such a situation.

Mr. Stevens here suggests that because of the treaty every investigation has to be conducted with the three parties present. Under Article III of the Convention it is clear that two parties alone can investigate and regulate without the intervention of the third party. He is therefore wrong when he says that to regulate our Fraser River pink runs we would need to await investigation and recommendation of the new International Commission with Japan as a third member.

The CHAIRMAN: Thank you very much, Mr. Bates. I presume some of the members of the committee may have questions to ask.

Mr. APPLEWHAITE: Mr. Chairman, I would like to make a suggestion, if it is agreeable to the committee. I was wondering if perhaps we might be per-

mitted to call the representative from the Department of External Affairs at this point, because I would like to ask him a few questions, and then possibly the committee's follow-up might be directed either to Mr. Bates or to Mr. Erichsen-Brown as the occasion requires. In other words, we would have them both before us at the one time.

The CHAIRMAN: Is that suggestion agreeable to the committee?  
Carried.

I have much pleasure in asking Mr. J. P. Erichsen-Brown, Legal Adviser to the Department of External Affairs to come to the head table. In this connection perhaps Mr. Erichsen-Brown would like to make an opening statement.

**Mr. J. P. Erichsen-Brown, of the Legal Division, Department of External Affairs, called:**

The WITNESS: Mr. Chairman, I would like to make a brief statement.

The CHAIRMAN: Yes, that will be in order.

The WITNESS: First of all, I am not, technically, the legal adviser to the Department of External Affairs. I might be called the deputy legal adviser, although actually we do not use that term in our department. Perhaps I should say that I am a member of the legal division of the Department of External Affairs; I am the member of that division who, either fortunately or unfortunately, has had to deal with this subject.

I would like to say at the outset—and I believe that Mr. Bates made this observation at an earlier session—that there is quite a large number of departments of the government interested in this question of territorial waters.

I did not have a great deal of notice that it was the desire of this committee that I should appear here. But I have done what I can to brush up my recollection of points which I thought might be of interest to the committee. However, I would like to have it definitely understood that I am in no sense authorized to speak on behalf of any of the other departments; such departments include the Customs Division of the Department of National Revenue, the Department of Transport which has got an interest, the R.C.M.P. which has an interest in policing our coastal waters, the Department of Resources and Development, the Department of Mines and Technical Surveys which has a great interest in mapping as well as in some incidental questions which arise, and also the Departments of National Defence and Justice.

The second observation I would like to make concerns the importance of territorial waters when you are considering the rights of another state. The relations with another state depend upon international law; they do not depend upon domestic law. On the other hand, what has been done in domestic law may be of importance in determining what the international law would say was the resulting position.

The question of territorial waters is one on which you could write a book. I suppose if I were to look at the shelf in our legal library I could find perhaps nine or ten volumes anyway which have been written on this subject. Most of them I have not read, and if I were asked to give anything in the nature of an academic explanation of the factors involved in determining the extent of territorial waters, in the first place I would probably bore the committee, and in the second place I would be in constant difficulty.

I noticed in the brief of the United Fishermen and Allied Workers' Union submitted to the committee that there were references to legal authors, and I thought of preparing a list of counter-statements. But I decided that in the time available it would be quite useless for me to attempt to do so. However, I was grateful to Mr. Bates and I was glad when I observed that he had dealt so adequately with those matters in the statement which he has just made.

I think the most useful introduction I could make to this subject would be to refer the committee to the existing provision which has been made by parliament itself. I have brought with me some copies of an article that was included in the Customs Act by parliament in 1936, together with a schedule to that Act which was included at the same time, in which reference is made to an award of an international arbitration which concerned North Atlantic Fisheries. Possibly Mr. Small might distribute these copies now, then I might make a few references to them.

*By Mr. MacNaught:*

Q. Do you want this article incorporated in the record?—A. I think that would be for the committee to say.

Q. But you would have no objection?—A. No. It is a public document. It is an Act of parliament.

Q. I think it would be wise to have it incorporated in the record.

The CHAIRMAN: Is it agreeable to the committee that we have this article incorporated in the evidence?

Agreed.

Would you prefer to have it put in as an appendix?

The WITNESS: That would be quite satisfactory.

(See documents, Appendix A.)

The WITNESS: On the first page, there is a copy of an extract from section 2 of the Customs Act; that is the provision which was added in 1936. You will observe that the opening words of the section are that:

In this Act, or in any other law relating to the customs, unless the context otherwise requires, . . .

And then there follows in sub-paragraph (u) a definition, which reads as follows:

(u) "Canadian waters" shall mean all territorial waters of Canada and all waters forming part of the territory of Canada, including the marginal sea within three marine miles of the base lines on the coast of Canada, determined in accordance with international law and practice; subject, however, to the following specific provisions: . . .

I would like to make two comments. First, I would like to say that this definition in its terms is specifically limited to customs purposes. It appears in a domestic Act of Canada and it is the ordinary rule of statutory construction that you interpret the words used in an Act of Parliament with due regard to the purposes for which that Act was enacted by Parliament.

My second comment is this: That in this definition of Canadian waters, there is included the words "including the marginal sea within three marine miles of the base lines on the coast of Canada, determined in accordance with international law and practice . . .

You will observe that parliament has proceeded on the assumption that the starting point was the three mile limit; and that was followed by the concluding words:

. . . determined in accordance with international law and practice; . . .

I am coming back to this definition in a few minutes. But at this point I would like to turn over to the second sheet which is the schedule which is annexed, and there is quoted at the opening of the schedule the words of the question which were put to the Arbitration Tribunal as to the meaning of the words "three marine miles of any of the coasts, bays, creeks, or harbours"

referred to in the said article. That was a reference to the question which had been put to the Arbitration Tribunal, and the quotation was taken from an article of the treaty which was under consideration by that tribunal.

Now, the significance of this schedule is that it deals with bays, and if you will examine it, you will see from the comments of the tribunal, which are all quoted here, in the paragraph following the asterisks—and by the way, those asterisks appear in the original schedule to the Act. Parliament saw fit to leave out the intervening material in the original award. But if you will refer to these paragraphs, you will find a reference to what I might term the general rule in reference to bays. Then later on, following the caption under No. 2, there is a reference to certain specific bays. Those bays, you will observe, are all on the Atlantic coast.

Now, in connection with what I have referred to as the general rule, that is, the ten-mile rule in regard to bays, you will observe that the commission did not suggest that it was a rule of international law. So of necessity they made a recommendation, and the last two paragraphs of this first part reads:

Now, therefore, this tribunal, in pursuance of the provisions of article IV, hereby recommends for the consideration and acceptance of the High Contracting Parties the following rules and methods of procedure for determining the limits of the bays hereinbefore enumerated:

In every bay not hereinafter specifically provided for the limits of exclusion shall be drawn three miles seaward from a straight line across the bay in the part nearest the entrance at the first point where the width does not exceed ten miles.

That was put in the arbitration award as a recommendation only. But in this definition in the Customs Act, parliament saw fit to include as the first exclusion in sub-paragraph (1):

- (i) Canadian waters shall not extend beyond the limits of exclusion recommended in the North Atlantic Fisheries Award, answer to question V, as set forth in the schedule to this Act.

That means that for customs purposes there was a domestic rule in the law of Canada created, that the territorial waters should be based on the three-mile rule determined in accordance with international law and practice and that in the case of bays, they are to follow this ten-mile rule.

But if you will look at the latter part of the schedule, the specific bays, those were based, where territorial waters were established, on what might be called a historic basis. In other words, there had been established over a period of years a line of conduct between Canada on the one hand and foreign states on the other, from which a deduction could be drawn that Canada had asserted claims to those bays as territorial waters; and there had been international recognition of that fact by other states.

This definition, which as I pointed out is in the Customs Act, is in general terms. In other words, the definition, in sub-paragraph (u), of Canadian waters applies to all territorial waters of Canada.

On the face of it, it applies to the Pacific coast as well. But on the other hand, obviously, the portions of the schedule which relate to specific bays on the Atlantic coast are completely irrelevant from the point of view of the Pacific coast.

I observed earlier that any rule of our domestic law was not to be regarded as conclusive in determining what the position might be internationally. I also pointed out that the Customs Act dealt with specific purposes, and I would like to enlarge on that.

The Customs Act is part of the domestic law of Canada. The important law in determining our territorial waters is international law. International

law may have regard to domestic law but the specific provisions of a statute in domestic law for a specific purpose are only evidence of the claims asserted by that state for that purpose and are not conclusive.

The introductory words of the definition of the Customs Act indicate that it is restricted to customs purposes and there is also a general rule of domestic statutory construction that all statutes should be construed in reference to the objective which Parliament must have had in mind in passing the legislation as disclosed by the statute in question.

Because of the foregoing considerations and the realization that different states of the world apply different rules, and in some cases rather extravagant claims have been made to territorial waters, a tendency which I note as a fact and without comment, the consistent policy of the Department when answering any enquiries received from foreign governments concerning territorial waters of Canada have been to include a paragraph along the following lines:

The conclusion has now been arrived at that it is generally recognized that there are, as yet, no particular rules which can be said to constitute a definite system of universally accepted principles thereon, and Canada, therefore, like most other countries, has been reluctant so far to formulate a definite policy in this respect.

Now we were, of course, anxious to preserve our position as regards the rest of the world, but what the government might do is in no sense for me to say, and I would not even offer an opinion as to what might be done. Now, I would like to close this introductory statement with another general observation.

This three-mile rule with base lines following the coast was established in the course of the nineteenth century, and the greatest exponent of that rule was the United Kingdom. It was referred to in a number of conventions to which the United Kingdom was a party, and some of which are referred to in the schedule to this Act which is in front of you. As part of the commonwealth, we inherited certain rights and obligations under old treaties, and I think it is a fair statement in so far as any commonwealth country is concerned, that in determining whether or not our territorial waters were determinable by anything other than the three-mile rule on such lines, we would have to proceed with considerable care; we would have to consider the extent to which we were bound by action taken in the past, and we would have to have regard to the rules as they have been accepted on the North American continent. I think that it is a correct statement as regards the United States and Canada, both of which have followed the same legal traditions, that such a three-mile rule is one which has been generally accepted.

In other words, on any question of our territorial waters, we would have to have regard to what has been done in the past, and the extent to which it has received international recognition. Therefore, to that extent the international rule is a three-mile rule.

I could make some further comments, but I think it might be more useful to the committee if I were at this point to break off and possibly answer any questions which might be asked.

*By Mr. Applewhaite:*

Q. Mr. Chairman, the matter referred to this committee in the first place is that of a proposed fisheries treaty with Japan. There are just a few questions to which I would like to have answers from this witness. I wonder if he could tell us at the present time, without the Japanese treaty what the position of our salmon and halibut fisheries on the Pacific coast would be in so far as the right of the Japanese to fish them is concerned, assuming, as I have said, that this treaty does not exist?—A. That depends essentially on the

territorial waters, or the limit of territorial waters. The situation, in a nutshell, is that in so far as the high seas are concerned, no state can restrict the activities of any other state. I looked up some of the legal authorities on this question of the high seas, and I might say that it is a question which the lawyers, in international law at least, are rather inclined to take for granted. We just assume it.

Q. Split it into two parts. I do not want to ask leading questions if I can help it. What is their position outside our territorial waters at the present time with respect to salmon and halibut?

The CHAIRMAN: You mean the Japanese?

*By Mr. Applewhaite:*

Q. I mean the position of Japanese fishermen outside our territorial waters at the present time, without the treaty?—A. I would say that without a treaty there is no restriction. Am I right in that, Mr. Bates?

Mr. BATES: You are the expert, Mr. Erichsen-Brown.

The WITNESS: That is my understanding of the legal position. And the reason I say it in those terms is that my understanding is that this convention which is before the committee is the first convention in which an attempt has been made to regulate fisheries on the high seas of the Pacific. And if that assumption is correct, and if this is, in fact, the first regulation—and I assume that it is—then the answer is very simple: That we have no control over the Japanese at all.

*By Mr. Applewhaite:*

Q. If we did have control, perhaps we would not need a treaty. Now, in the view of your department at the present time, what is the limit of our territorial waters on the Pacific?—A. Mr. Chairman, I made rather an effort to avoid having to answer that question. However, I would like to put it this way: That the three-mile rule following the coast has generally been regarded in the past as the rule, which has received international acceptance as between Canada and other states, on the coasts of Canada.

Q. I have just one other question at this time. Could you tell me if it is practical from the point of view of External Affairs that there could be one rule as to territorial waters on our Pacific coast and a different rule on our Atlantic coast?—A. I think the answer to that is "yes and no". And I will have to explain that answer. In so far as it is governed by general principles, the rule would obviously be the same; but in so far as these specific waters are concerned, where the question of historical background is relevant, obviously each case would depend on its own circumstances.

Q. Thank you!

The CHAIRMAN: Does any other member of the committee wish to address questions to Mr. Erichsen-Brown? If not, perhaps Mr. Bates might like to answer questions which would be addressed to him.

Mr. MACNAUGHT: Mr. Chairman, there is just one question I want to ask this witness.

The CHAIRMAN: Very well, Mr. MacNaught.

*By Mr. MacNaught:*

Q. Can the witness tell the committee if at the present time there is an inter-departmental committee making a study of the problem as it affects our territorial waters?—A. Yes, Mr. Chairman, there is.

*By Mr. Mott:*

Q. Mr. Chairman, I would like to ask Mr. Erichsen-Brown a question but I think he would need to look at the map in order to answer it. Perhaps Mr.



Bates would show him the place on the map about which I want to ask my question. I think it has been mentioned by Mr. Stevens in a suggestion that they come out from Dixon's Straits to our territorial line which would be three miles off the Queen Charlotte Islands; and if that is three miles off the Queen Charlotte Islands, I take it it would be the farthest point west of the Queen Charlotte Islands, and then a straight basic line down to the farthest point off Vancouver Island; that was the basic line I think he was talking about the other day. And if we were to try to get that basic line, would not the Americans have the right—if you go up to Alaska and take the long peninsula running out in Alaska, running out to False Pass, which is right at the end of the peninsula running out from Alaska, would they not have the right to take a basic line from there right across to the Gulf of Alaska over to Dixon's Channel, or Dixon's entrance, thereby cutting off the whole Gulf of Alaska? Would not the argument be the same? If you are taking the outside point of the western portion of the Pacific coast of Canada, would you not have the right to ask for the same?—A. I am not certain that I understand exactly where the last line that you mentioned runs.

Q. Right straight through.—A. In other words, slicing off a very large piece of the high seas?

Q. A base line out of the Queen Charlotte Islands right down to a point off Vancouver Island, regardless of what the distance is in between—a 3-mile limit from the furthest point out on the west coast as a base line for the Pacific coast fishermen.—A. I would like to be sure that I understand this question. I understand you have put it to me on the basis of what would be the effect if we were to make a declaration to that effect.

Q. Yes, would not the United States have the same right?—A. That, I take it, is a legal question?

Q. Yes.—A. I cannot venture to answer it and I cannot, of course, make any comment on any question of policy. I think the answer to that is that what are the territorial waters of a littoral state depends basically on the assertion of that littoral state as to what its claims are, plus the acceptance or acquiescence of other states in that assertion. That was the historical origin of the 3-mile-limit rule. As years went by and these questions of territorial waters became more important, the assertions on the one hand and the acceptances of those assertions by other states on the other, tended to follow a pattern and there emerged a rule of law, if you could put it that way. Now, to come back to your question, if this line were now to be declared, the answer to that would depend on what the international acceptance of that declaration might be. States which consider that they had rights in the high seas up to what they conceive to be the Canadian claim according to earlier claims by Canada would probably reject that declaration. Some of them might accept it, particularly the states which are, most of them, far off from Canada and with which we have no direct concern, some of whom have made what we regard as rather extravagant claims on their own behalf. Whether the important states from Canada's point of view would accept it or not is very much, if I might call it that, a "\$64 question".

The CHAIRMAN: Any other questions, gentlemen? I might say that Mr. Ozere, Director of Legal Service of the Department of Fisheries, is here as well, and would be glad to answer any questions directed to him.

Mr. APPLEWHAITE: I do not want to monopolize this discussion, but I want to ask Mr. Ozere one question. It may be embarrassing, but I think it is logical. I would like to ask whether he, as legal adviser to the Department of Fisheries, agrees with the answer given by Mr. Erichsen-Brown to my question as to the present position without a treaty on the Pacific. I could ask the same question over again, but I do not think it is necessary.

The CHAIRMAN: Would you like to answer that question, Mr. Ozere?

Mr. S. V. OZERE (*Director of Legal Service, Department of Fisheries*): Yes, I would entirely agree with Mr. Erichsen-Brown's statement of the position that beyond the territorial waters fishery resources under international law are open to any nation. We can fish beyond the territorial waters off the coasts of other countries, and other countries have the same right.

Mr. MACNAUGHT: Could I ask you one question, Mr. Ozere. Are you a member of the interdepartmental committee making a study at the present time of the territorial waters problem?

Mr. OZERE: Our department is represented on the committee and I have been representing the department at several meetings.

Mr. MACNAUGHT: Is the Department of Fisheries taking an active part in this committee's deliberations or work?

Mr. OZERE: Definitely.

Mr. GILLIS: Could I ask Mr. Bates to comment on the question of the practicability of the base line suggested in Mr. Pearkes' report here? We will be hearing more about the recommendation of Mr. Pearkes—it is in the fifth paragraph of his letter. He recommends a definite base line here and sets out the areas from which it should be drawn. In my own mind, you answer it quite clearly when you are speaking, but there are a lot of people who are going to read this evidence, but who are not here to hear that clear explanation, and you do not get it as well when you are reading it. Is that base line recommended by General Pearkes a practical proposition? I am not much concerned about the legal angles.

Mr. BATES: I take it that the base line referred to by the hon. member is the one Mr. Mott mentioned a few moments ago, that is, one which would be drawn from the extreme top of Queen Charlotte Islands and cover the outer fringe of Vancouver Island. That, again, is a question which the experts here will answer better than I. As I recall Mr. Stevens' suggestion, he said this shift might be done on the basis of a recent case that was before the International Court at The Hague, when a base line was redrawn for Norway in a controversy with the United Kingdom. Now, I am no legal officer, sir. I have read this case before the court and, as I recall, the British government had respected that particular base line by treaty from the year 1660 until 1906. It was a long, historical period in which the base line had been respected by treaty, and it is my understanding that that historical feature weighted very heavily in the judgment of the court. Am I right on that point?

Mr. ERICHSEN-BROWN: Mr. Bates, I was just going to question your use of the word "treaty". You are quite right that in the judgment before the International Court there was a major dispute on a question of fact. That question of fact was as to whether the claims which Norway said she had asserted over a great many years had been brought to the attention of the United Kingdom, and whether the United Kingdom had acquiesced in them. Norway relied on certain very early decrees, and my recollection is that the earliest one went back to the first half of the 19th century. The United Kingdom said in fact that she had not heard of these decrees, and that it was not incumbent upon her to object to decrees which had not adequately been publicized. Now, that question of fact—and I am speaking very generally, without having recently read the very lengthy judgment—but that question of fact was one which, according to my recollection, was resolved by the majority of the court in favour of Norway. The dissenting judges in the court resolved that question in favour of the United Kingdom, but I think it is a very true statement to say this, that the judgment of the court turned very largely on that question of fact on these Norwegian decrees which had been promulgated so many years before, and I think it is also correct to say that the principles recognized or upheld by the court in this case were based essentially on historical precedent.

Mr. GILLIS: Then the answer is you could not establish the base line recommended by General Pearkes without interfering with the historical rights of the United States.

The WITNESS: That, again, is a question of fact, Mr. Gillis. You may be right.

Mr. GILLIS: What have you to say, Mr. Bates?

Mr. BATES: You have two legal experts here. You have me in the same position as yourself, Mr. Gillis.

Mr. GIBSON: To establish a base line, it seems to me you would have to get acquiescence based on historical fact.

The CHAIRMAN: All these factors, naturally, are taken into consideration.

Mr. GIBSON: So the establishment of this base line as suggested would require you first to establish a lot of facts before establishing the base line, and also get a lot of acquiescence. Is that true? What would you say about that, Mr. Brown?

The WITNESS: Yes, I would say so.

Mr. GILLIS: Perhaps, then, as far as the United States is concerned, they could draw a line of boundaries for themselves and mess the thing up a little bit.

Mr. GIBSON: I might say they might have a way of retaliating in the matter of our fishing exports to the United States.

Mr. BRYCE: What are the benefits to be derived from that? Are there great benefits to be derived from getting this new base line?

Mr. BATES: Yes. I think there are several obvious benefits in any extension of territorial waters anywhere. There are obvious advantages from a straight conservation point of view. The more of the high seas, or rather the further your territorial waters extend into the high seas, the more species you have under your own control for conservation purposes. The Department of Fisheries would like to see our territorial limits extend as far out as possible. The extension suggested in this particular case would cover a great many fisheries, but the fact remains that in the case of, I suppose our main species, namely, salmon, that fish goes somewhere in the Pacific—we do not know where—during its off shore period. I think with the state of scientific knowledge, it would be very difficult for anyone to say that if you drew a line off the coast you would be sure to protect that species in the high seas for ourselves. So we have taken the only alternative, that is, trying to get the protection not by stretching the border out, but by trying to get the protection of the species, whether it happens to be in the high seas, or even whether it stretches across the Pacific. The other thing we think is very important is this: In British Columbia up to, one might say, very recently, the salmon industry in particular waited on the fish coming in the front door, coming into the Fraser river or into the Skeena river. It is now pushing its activities out into the high seas, and it must do so probably because there is every suggestion that the Japanese know how to take salmon in the high seas; they know the techniques, so unless we can protect salmon far into the Pacific we might be in the danger I mentioned this morning of having a territorial water line perhaps even quite far out from what we have today, which still would not protect our salmon species if someone else could catch them just outside that line.

Mr. GIBSON: Is it not true, Mr. Bates, that the quality of fish caught in the sea would be higher than the fish we catch in our living room, as it were?

Mr. BATES: It is generally true that fish taken in salt water have a higher quality than fish taken after they have entered the fresh water rivers. That is salmon, I mean, taken at sea.

The CHAIRMAN: Mr. Bates, I would like to ask you a question. If a line were drawn off our Pacific coast to the limits of the continental shelf, to what extent in miles would that line average off the coast line.

Mr. BATES: It is not possible to give a simple answer to that question.

The CHAIRMAN: Approximately?

Mr. BATES: First of all, there is a legal question as to what is meant by the continental shelf and what depth you draw it at.

The CHAIRMAN: The reason I asked that question in that way is that these words were used by a witness.

Mr. BATES: They were not defined by that witness. It is taken as one hundred fathoms depth. That line varies in distance from the B.C. coast. As I mentioned this morning, right at the opening of the Straits of Juan de Fuca the continental shelf extends for about 30 miles, but before you get halfway up Vancouver Island it comes down to almost three miles. It varies according to the configuration of the mainland and the bottom, so it would be quite a wavy line when drawn.

The CHAIRMAN: You mentioned also the 175th meridian in your statement. How far is that from the provisional line shown on the map, Mr. Bates?

Mr. BATES: That line slips down through to the Aleutians. The vertical line is the 175th meridian.

The CHAIRMAN: And then it converges at the top towards the 160th and 170th?

Mr. BATES: That is right. That line actually follows the international boundary line drawn at the time of the Alaskan purchase, in the treaty between the United States, Russia and the United Kingdom, drawn in 1867.

The CHAIRMAN: Gentlemen, we would like, if possible, to complete the examination of the witnesses today, so that the examination might be concluded. Would that be satisfactory to the members of the committee? I would suggest if there are any further questions that you would like to address to these three gentlemen now, that you would do so.

Mr. CATHERWOOD: Mr. Chairman, I wonder if this committee could recommend to the External Affairs Department the suggestion that Mr. Pearkes has made in regard to the definition of Canadian territorial waters. I think this matter is one of extreme importance and it would be in order to suggest to the Department of External Affairs that they re-examine and go into this matter very thoroughly so we will have a more precise definition of territorial waters, which I think will be of some help to us all.

The CHAIRMAN: In that regard, I might point out that there is an inter-departmental committee studying that matter at the present time. Do you not think that would cover it sufficiently?

Mr. CATHERWOOD: Yes, perhaps it will.

The CHAIRMAN: If there are no other questions to be addressed to these witnesses, I would like to express to the witnesses, on your behalf, the thanks of the committee for their presence here this morning and for the very helpful information which they have given to the committee. Thank you very much.

Now, gentlemen, the remaining business of the committee is to take up article by article consideration of the proposed treaty and the committee's final report to the House on the treaty itself.

Do you consider that the hour is too far advanced to go on with this now? If so, when do you wish to meet again?

Some Hon. MEMBERS: Tuesday.

The CHAIRMAN: We will meet on Tuesday at 11 o'clock.

The meeting adjourned.

## APPENDIX "A"

## EXTRACT FROM "THE CUSTOMS ACT"

2. In this Act, or in any other law relating to the Customs, unless the context otherwise requires,

- (u) "Canadian waters" shall mean all territorial waters of Canada and all waters forming part of the territory of Canada, including the marginal sea within three marine miles of the base lines of the coast of Canada, determined in accordance with international law and practice; subject, however, to the following specific provisions:—
- (i) Canadian waters shall not extend beyond the limits of exclusion recommended in the North Atlantic Fisheries Award, answer to question V, as set forth in the Schedule to this Act;
  - (ii) the extent of Canadian waters shall conform with the provisions of any other Act of the Parliament of Canada;
  - (iii) the Governor in Council may from time to time by proclamation temporarily restrict, for customs purposes, the extent of Canadian waters and such proclamation shall not be construed as forgoing any Canadian rights in respect of waters thus restricted;
  - (iv) the plotting of base lines and of the limits of Canadian waters on a map or chart issued under the authority of and approved by the Governor in Council shall be conclusive evidence of the due determination of such base lines and of the extent of Canadian waters or of Canadian waters temporarily restricted, pursuant to the provisions of the preceding paragraph (iii);
  - (v) "Canadian customs waters" shall mean the waters forming that part of the sea which is adjacent to and extends nine marine miles beyond Canadian waters.

## SCHEDULE

## NORTH ATLANTIC FISHERIES AWARD

Extract From Answer of Tribunal of Arbitration Constituted in Accordance with the Provisions of Article V of the Special Agreement between His Majesty and the United States of America, Signed at Washington the 27th January, 1909.

THE HAGUE, September 7, 1910.

## THE NORTH ATLANTIC COAST FISHERIES

Question V.

From where must be measured the "three marine miles of any of the coasts, bays, creeks, or harbours" referred to in the said article?

\*\* \*\* \*

For these reasons the tribunal decides and awards:—

In case of bays, the three marine miles are to be measured from a straight line drawn across the body of water at the place where it ceases to have the configuration and characteristics of a bay. At all other places the three marine miles are to be measured following the sinuosities of the coast.

But considering the Tribunal cannot overlook that this answer to Question V, although correct in principle, and the only one possible in view of the

want of a sufficient basis for a more concrete answer is not entirely satisfactory as to its practical applicability, and that it leaves room for doubts and differences in practice; therefore the Tribunal considers it its duty to render the decision more practicable, and to remove the danger of future differences by adjoining to it a recommendation in virtue of the responsibilities imposed by Article IV of the Special Agreement.

Considering, moreover, that in treaties with France, with the North German Confederation and the German Empire and likewise in the North Sea Convention, Great Britain has adopted for similar cases the rule that only bays of ten miles width should be considered as those wherein the fishing is reserved to nationals: And that in the course of the negotiations between Great Britain and the United States a similar rule has been on various occasions proposed and adopted by Great Britain in instructions to the naval officers stationed on these coasts: And that though these circumstances are not sufficient to constitute this a principle of international law, it seems reasonable to propose this rule with certain exceptions, all the more that this rule, with such exceptions, has already formed the basis of an agreement between the two Powers.

Now, therefore, this Tribunal, in pursuance of the provisions of Article IV, hereby recommends for the consideration and acceptance of the High Contracting Parties the following rules and methods of procedure for determining the limits of the bays hereinbefore enumerated.

## 1

In every bay not hereinafter specifically provided for the limits of exclusion shall be drawn three miles seaward from a straight line across the bay in the part nearest the entrance at the first point where the width does not exceed ten miles.

## 2

In the following bays, where the configuration of the coast and the local climatic conditions are such that foreign fishermen, when within the geographic headlands, might reasonably and *bona fide* believe themselves on the high seas, the limits of exclusion shall be drawn in each case between the headlands hereinafter specified as being those at and within which such fishermen might be reasonably expected to recognize the bay under average conditions.

For the Baie des Chaleurs the line from the light at Birch Point on Miscou Island to Macquereau Point Light; for the bay of Miramichi, the line from the light at Point Escuminac to the light in the eastern point of Tabusintac Gully; for Egmont Bay, in Prince Edward Island, the line from the light at Cape Egmont to the light at West Point; and off St. Ann's Bay, in the province of Nova Scotia, the line from the light at Point Anconi to the nearest point on the opposite shore of the mainland.

For Fortune Bay, in Newfoundland, the line from Connaigre Head to the light on the southeasterly end of Brunet Island, thence to Fortune Head.

For or near the following bays the limits of exclusion shall be three marine miles seaward from the following lines, namely:—

For or near Barrington Bay in Nova Scotia, the line from the light on Stoddart Island to the light on the south point of Cape Sable, thence to the light at Baccaro Point; at Chedabucto and St. Peter's Bays, the line from Cranberry Island light to Green Island light, thence to Point Rouge; for Mira Bay, the line from the light on the east point of Scatari Island to the north-easterly point of Cape Morien; and at Placentia Bay, in Newfoundland, the line from Latine Point, on the eastern mainland shore, to the most southerly point of Red Island, thence by the most southerly point of Marasheen Island to the mainland.

Long Island and Bryer Island on St. Mary's Bay, in Nova Scotia, shall, for the purpose of delimitation, be taken as the coasts of such bays.

It is understood that nothing in these rules refers either to the Bay of Fundy considered as a whole apart from its bays and creeks or as to the innocent passage through the Gut of Canso, which were excluded by the agreement made by exchange of notes between Mr. Bacon and Mr. Bryce, dated February 21, 1909, and March 4, 1909; or to Conception Bay, which was provided for by the decision of the Privy Council in the case of the Direct United States Cable Company v. the Anglo-American Telegraph Company, in which decision the United States have acquiesced.





HOUSE OF COMMONS

Sixth Session—Twenty-first Parliament, 1952

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STANDING COMMITTEE

ON

# MARINE AND FISHERIES

*Chairman:* T. G. W. ASHBOURNE, Esq.

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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 4

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TUESDAY, JUNE 10, 1952

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including

THIRD REPORT TO THE HOUSE

on the

Draft International Convention for the High Seas Fisheries of the  
North Pacific Ocean.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1952

## REPORT TO THE HOUSE

TUESDAY, June 10, 1952.

The Standing Committee on Marine and Fisheries begs leave to present the following as a

### THIRD REPORT

Pursuant to its Order of Reference, your Committee, during the course of eight meetings has examined and inquired into the proposed tripartite international Convention for the High Seas Fisheries of the North Pacific Ocean, and has heard evidence on the said Convention from six witnesses, as follows:

1. Mr. Stewart Bates, Deputy Minister of Fisheries;
2. Mr. C. G. O'Brien, Manager, Fisheries Council of Canada;
3. Mr. K. Fraser, Fisheries Association of British Columbia;
4. Mr. Homer Stevens, Secretary-Treasurer, United Fishermen and Allied Workers' Union, Vancouver, B.C.;
5. Mr. S. V. Ozere, Director of Legal Service, Department of Fisheries; and
6. Mr. J. P. Erichsen-Brown, Legal Division, Department of External Affairs.

In addition, the Honourable R. W. Mayhew, Minister of Fisheries, addressed your Committee.

Your Committee wishes to express its appreciation of the help and co-operation of all who were in attendance or made written representations to the Committee.

In its considerations, your Committee had foremost in mind:

1. The immediate and future great importance of this Convention to the Pacific Coast fishing industry in particular, as well as to the Canadian fishing industry as a whole; and
2. The necessity for the conservation and preservation of the fish resources in the light of increasing demands for food sources, advanced fishing methods, and encouraging the greatest possible measure of employment.

Your Committee was also aware of the great importance of further extending improved international co-operation and goodwill so that in the near future such matters as the territorial waters' limits, after thorough study and investigation, may be resolved.

Your Committee, therefore, unanimously recommends that the House do approve the proposed International Convention for the High Seas Fisheries of the North Pacific Ocean, negotiated by Canada, Japan, and the United States of America at Tokyo in December, 1951.

A copy of the Minutes of Proceedings and Evidence of the Committee is appended.

All of which is respectfully submitted.

T. G. W. ASHBOURNE,  
*Chairman.*

## MINUTES OF PROCEEDINGS

TUESDAY, June 10, 1952.

The Standing Committee on Marine and Fisheries met at 11.00 o'clock a.m. The Chairman, Mr. T. G. W. Ashbourne, presided.

*Members present:* Messrs. Applewhaite, Ashbourne, Balcom, Black (*Cumberland*), Bryce, Catherwood, Gibson, Gillis, Leger, Macdonald (*Edmonton East*), MacNaught, McLean (*Huron-Perth*), McLure, Mott, Stuart (*Charlotte*), and Wood.

*In attendance:* Mr. Stewart Bates, Deputy Minister of Fisheries.

The Chairman informed the Committee that advance copies of the printed Minutes of Proceedings and Evidence No. 3 for June 5 had just been received from the Queen's Printer. Copies of same were distributed to members present.

The Committee then proceeded to its final article-by-article consideration of the proposed tripartite International Convention for the High Seas Fisheries of the North Pacific Ocean, including the preliminary matter, annex, and protocol thereto, all of which following discussion thereon, were adopted without amendment.

(At this point, the Committee's proceedings continued *in camera*).

The Chairman presented and read a draft of the Committee's Report to the House on the said Convention, copies of which were also circulated to members present.

Following discussion thereon, on motion of Mr. Leger,

*Resolved*,—That the first line of the paragraph, containing the Committee's recommendation to the House, of the draft Report to the House be amended by inserting the word "unanimously" immediately preceding the word "recommends".

On motion of Mr. Macdonald (*Edmonton East*),

*Ordered*,—That the Chairman present the said report, as amended, to the House as the *Third Report* of the Committee.

The Chairman, on behalf of the Committee, conveyed a unanimous vote of appreciation to Mr. Bates and thanked him for his attendance and assistance to the Committee.

The Chairman also expressed his personal thanks to those associated with the Committee for the co-operation and active interest shown throughout, particularly by members of the Committee, and for their complete and ready assistance in facilitating the Committee's proceedings.

At 11.50 o'clock a.m., the Committee adjourned *sine die*.

A. SMALL,  
Clerk of the Committee.

STATE OF NEW YORK

IN SENATE

January 15, 1907.

REPORT OF THE

COMMISSIONERS OF THE LAND OFFICE

FOR THE YEAR 1906.

ALBANY:

ANDREW DEWEY, STATE PRINTER.

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## EVIDENCE

JUNE 10, 1952.

11:00 a.m.

The CHAIRMAN: Gentlemen, we have a quorum. There are two other committees meeting this morning as well as this committee on marine and fisheries; there is a committee on defence expenditures and another committee on banking and commerce; and some of the members of this committee are also members of these other two committees.

The business before the committee this morning is the article-by-article consideration of the convention, the draft International Convention for the High Seas Fisheries of the North Pacific Ocean.

### Article 1:

Mr. APPLEWHAITE: Mr. Chairman, at this stage, when considering the first article of the treaty, I would like the indulgence of the committee in order that I might make a short statement dealing with the treaty as a whole. I think, perhaps, I should say that up to the present we have had witnesses and questions and answers only. I am the only member of the committee who took part in the negotiation of this treaty. While I have no intention whatever of going over all the ground that was gone over so well by Mr. Bates, what Mr. Bates gave was as evidence; what I will be giving the committee, of course, is opinion. I would like just shortly to point out to this committee that on the Pacific Coast over the last period of years we have conserved by regulation our stocks of halibut, herring and salmon. That conservation has meant a great deal of financial expenditure by the dominion government, and it has meant a great deal of supervision and regulation of those engaged in the fisheries industry, involving closed seasons, the application of regulations hampering the freedom of action of the fishermen, quotas, gear sizes and so forth to conserve a steady supply of these species of fish; and these regulations have been loyally lived up to.

There has been for a good many years a fear in all branches of the industry—and when I say all branches I mean just that, investors, those in managerial capacities, those who are actually fishing, and those who have jobs in the fish processing plants—that fear has been that some other country would come into our fisheries which we were conserving and by their exploitation of those fisheries upset our whole conservation program; and that fear came to a head at the end of hostilities with Japan when it was obvious that Japan, a country which would be economically hard pressed, would be free again to fish on the high seas.

This treaty which is before us now is the only possible means of answering that fear immediately, and it does so. It keeps out as from the date of its ratification by all three countries, it keeps out of these fisheries—halibut, herring and salmon—wherever found in the high seas the possibility of Japanese fishing. Granted, there is a 10-year period, but so far as I know there is no treaty of this nature, no commercial treaty, in existence which does not have a time limit; or, alternatively, it has a right of abrogation in it. So we have got by this treaty at least 10 years assured protection for fishing off our coast for these species which, as we have been told, cover 85 to 90 per cent of our total catch in value. That 10 years is there, because 5 years are fixed and the next 5 years can only be varied with the consent of the Canadian representatives on the commission followed by the consent of the government

of Canada, which certainly is not going to be given unless there is ample proof that there are far more fish there than we can possibly use ourselves.

The fear to which I have referred was real and the danger does exist today. Whatever peoples' views may be as to the ideal solution we do know—that we have been told by two legal experts, Mr. Erichsen-Brown and Mr. Ozere that that danger exists today—that in international law we have no right to stop the Japanese getting into these three species up to the three-mile limit off our shores. The alternative suggestion was—and its merits I am not going to discuss—the alternative suggestion is the territorial waters' changes. The changes in our territorial waters are protected by this treaty, specifically protected, and intentionally so. But we all know, surely, that to make a basic change in what would be a section of international law with reference to the Canadian coast is going to take a long time. There has been a lot of talk about it. It would not be possible just for us to say automatically that we are going to take over as purely Canadian territorial waters several thousands of square miles of the Pacific ocean. It may be that we could do it eventually, but we cannot do so immediately. But we can accept this treaty immediately and protect our halibut, our herring and our salmon. And it should be mentioned in that connection that even if we were to extend the Canadian territorial waters to 200 miles from the shores of Canada our halibut and salmon would still be open to depredation by other countries before they get into that area, and there will be no assurance whatever that there will be enough of the species left in our territorial waters to enable us to carry on on anything like the scale we are carrying on now.

As I said, I went over to Japan with the delegation which negotiated this treaty. I can quite honestly say that I can take very little credit for what has been accomplished, but I would like to make it clear to the committee that I am ready to take full blame for anything that has been accomplished because I honestly believe that we have reached the only agreement which would be effective, which it was possible for us under the circumstances to reach in the interest of our fisheries; and I say with regret but with sincerity that I feel that those who are working against the ratification of this treaty are not working in the interests of any branch of the fishing industry. No doubt their motives are of the best but they do not realize what would follow our accepting their suggestions that this treaty be discarded, which I honestly feel would result in a great calamity to the rich fishing industry of the Pacific coast, a calamity which most likely would result in the exhaustion of these fisheries within two or three years at the outside.

I would just like to add, in support of this treaty, that I would ask the committee to believe my sincerity in this matter. I am not speaking from any sense of personal pride or of the necessity to defend something that I have done; but because I have the sincere conviction that we have through this treaty reached the best possible solution to our immediate difficulty that could be obtained.

The CHAIRMAN: Shall Article I carry?

Carried.

Article II?

Mr. BLACK: I suppose we should have someone explain the treaty there; or is it the case that we have to accept all of it or none of it. Should we not have the Article read?

The CHAIRMAN: I presume the honourable member would like to have the treaty read or consider it article-by-article. As to the matter of accepting or not accepting the treaty, that will be a matter for consideration by the committee as a whole after the treaty has been considered article-by-article. The reason I am calling the articles is so that members may be able to address

any remarks which they wish, to the particular article; or, if the committee decides it would prefer, and think it in order, I am quite prepared to ask now whether the whole treaty would be acceptable.

Mr. BLACK: I think it would be wise to have it read section by section so that we could understand it. Perhaps Mr. Applewhaite might tell us what article was objected to?

Mr. APPLEWHAITE: I think it would be fair to say, Mr. Chairman, that no particular section of this treaty had been picked out for objection. Those who did oppose the treaty are of the opinion that instead of making a treaty of this sort at all we ought to have done the same thing by extending our territorial waters, and while making that suggestion they did not define just what they meant, they suggested something like 150 or 200 miles off-shore being held for our exclusive use, that that would be the best solution. I do not want to misinterpret my opponents, but I think that is the gist of their whole objection.

Mr. LEGER: What is the present territorial water limit, 3 miles from the coast?

The CHAIRMAN: Would you speak a little louder, please, Mr. Leger?

Mr. LEGER: What is the present limit of territorial waters as far as Canada is concerned?

The CHAIRMAN: I might say, gentlemen, in this connection regarding territorial waters' limits, the minutes of proceedings and evidence number 3 has just come to hand and I would ask Mr. Small, our clerk, if he would distribute them to the members personally. The other members will get them through the mail.

Mr. GILLIS: I want to ask a question of Mr. Applewhaite as one of the men who was present when this convention was being drafted. As I understand it, this convention is only applicable to the nations who were represented and are included in the treaty. Now, supposing Russia decides to send a fleet into these waters for fishing purposes and is not included in this convention, how would you handle that problem; would she be unrestricted and allowed to fish on the high seas contrary to the conservation program which has been laid down here?

Mr. APPLEWHAITE: We foresaw that difficulty with reference to almost any country and therefore it was put in the treaty that should some non-contracting party enter into these fisheries to such an extent that the situation was disrupting the scheme the governments would get together and decide what would be done. In other words, in negotiating this treaty we left it wide open to the three governments themselves to agree on the type of action to take. That is included right here in the treaty, in Article VI.

Mr. GILLIS: That is, at the present time under the terms of this treaty, you can do nothing to prevent except by entering into negotiations under Article VI of this treaty.

Mr. APPLEWHAITE: We had some authority to bind our own governments with respect to each other but we had—perhaps I should say we had no authority to bind our governments with respect to Mexico or Russia or South American countries.

Mr. GILLIS: I mentioned Russia because there is the possibility of their coming in there—you assumed that was a situation which might develop?

Mr. APPLEWHAITE: Yes, we did provide for it to this extent, that the three governments have agreed, contracted, that if one brings that situation to the attention of the others that they would get together on it.

The CHAIRMAN: Was the answer given by Mr. Applewhaite satisfactory to you, Mr. Black?

Mr. BLACK: I suppose so, but to my mind, the reading of the sections gives a better understanding of this proposed treaty.

The CHAIRMAN: Shall article II carry?

Carried.

Article III:

Mr. BLACK: Under this article, is that to be taken as preventing them from fishing in these waters?

Mr. APPLEWHAITE: For these species.

The CHAIRMAN: Yes, with respect to certain species.

Mr. BLACK: It was not intended to stop them from fishing for other species in these waters? Are they likely to come in and clean up on other fish?

Mr. APPLEWHAITE: We do not know what their intention is. They would have the legal right to fish for flat fish in waters off the Canadian coast provided it would be beyond our territorial limits.

Mr. LEGER: That would mean outside the 3-mile limit.

Mr. APPLEWHAITE: Yes, or any other territorial waters for which a limit may be set in future.

Mr. LEGER: Yes.

The CHAIRMAN: Shall Article III carry?

Carried.

Articles IV to XI inclusive, the Annex, Protocol, and Preamble carried.

The CHAIRMAN: Shall I report the convention to the House?

Agreed.

The next matter, gentlemen, will be consideration of the draft report to the House. I think on this occasion that will be a matter for discussion off the record.

(Committee continues its sitting *in camera*).













