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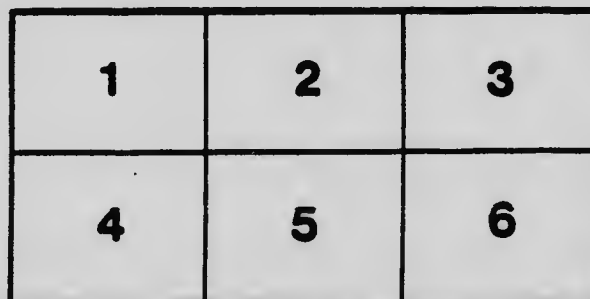
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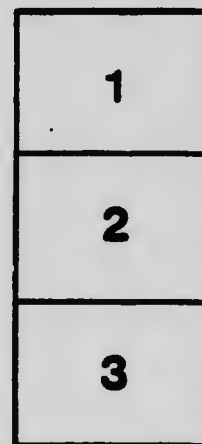
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RARE

CONFIDENTIAL MEMORANDUM

THE BAIT QUESTION

AND THE

**ADVISABILITY OF DISCONTINUING MODUS
VIVENDI LICENSES**

TO

UNITED STATES FISHING VESSELS



THE BAIT QUESTION

AND THE

ADVISABILITY OF DISCONTINUING MODUS VIVENDI LICENSES

TO

UNITED STATES FISHING VESSELS

The successful and profitable exploitation of the bank fisheries depends on three principal factors: Bait, crews and a handy base of operations. Of these essentials, unquestionably the bait supply is the vital one, for without it, the best equipped vessel, with the most accessible and convenient base, could avail nothing.

Fortunately Canada as well as Newfoundland is amply equipped in all these essentials for the prosecution of the vast fisheries surrounding their shores and on the banks, in close proximity. Their natural geographic position, in juxtaposition to the bank fisheries, favours them in this respect, and gives them a primary advantage, other conditions being equal or even approximately so, which should be insuperable to any competitor, the most favoured of whom it would seem, must be at the mercy of any mutual policy which would reserve to British subjects those advantages with which nature has endowed them.

Hence we find that the attempts at conventional negotiations has ever been in the one direction, to wit, the earnest endeavours to acquire that to which foreign fishermen are entitled, and by successive treaties, conventional arrangements, and *modus vivendi*, they have succeeded in practically attaining their end, always for an insufficient equivalent or for no equivalent at all.

The relation of the United States fishermen towards the gulf and adjacent fisheries, as established under the *modus vivendi*, 1888, ensured them freedom to purchase bait, transfer cargoes and tranship them in bond, to outfit vessels, to purchase supplies, to traffic generally in British ports and harbours, naturally developing into the transaction of other business ashore, not necessarily connected with fishing pursuits; but which most materially enhance the value of the concessions, by which they are enabled to make second and third full fares, during the one season. All this for the wholly inadequate license fee of \$1.50 per ton register, with no compensating advantages to British fishermen, and in the face of their specific renunciation by the Treaty of 1818, which gave United States fishing vessels the right of entry for wood, water, shelter and repairs, and for no other purpose whatever.

Newfoundland has, for some time past, been negotiating with the United States for the consummation of a treaty known

as the 'Hay-Bond Treaty,' and failing through the action of the United States Senate, the government of that colony has adopted legislation which terminates the conditions under the *modus vivendi*, and entirely debars United States fishing vessels from the privileges which that instrument temporarily secured to them, thus reviving the conditions obtaining under the convention of 1818. There is an added clause, however, which provides for power to suspend the law, in the event of the United States ratifying the 'Hay-Bond Treaty' at its autumn session.

This action has caused some comment in Canada, thus drawing attention to the relations existing, so far as she is concerned, and suggesting the probability or expediency of the consideration of some measures for a change in policy toward the fishing vessels of the United States.

In approaching a subject of this importance, it is deemed necessary that a short outline history of the whole question should be available for reference, and the undersigned therefore presents, for such purpose, the following resumé dealing with the matter in its different branches, embracing relations between Canada and Newfoundland and Canada and the United States, so far as they lead up to and affect the present position, and may assist a consideration of possible change.

RELATIONS BETWEEN CANADA AND NEWFOUNDLAND GROWING OUT OF THE FRENCH SHORE QUESTION, AND NEWFOUNDLAND'S INCIDENTAL BAIT LEGISLATION.

The differences between Canada and Newfoundland, which became quite acute during the period intervening between 1887 and 1892, principally in respect of the Bait Act—customs duties at the Grand Blaine convention, may be said to have grown directly out of the French Shore Question, which Newfoundland had so long been smarting.

The anomalous position in which that colony has been placed because of the French treaty rights and the declaration of 1783, in connection therewith, had long been the subject of diplomatic representations on both sides without any apparently reasonable solution of the difficulties of the case, and British commissioners were delegated to Paris in 1881, in view of the fact that disputes had arisen with the French because of their broad interpretation of their treaty rights to new conditions on the Newfoundland coast.

A provisional agreement was reached by the commissioners in November, 1885, which met with a general approval of the existing Newfoundland government, subject to certain stipulated modifications. These modifications were substantially conceded; but in the meantime a change in government had taken place, and objection was interposed to any arrangement which would secure to French fishermen the liberty of purchasing bait, the refusal of which the Newfoundlanders regarded as their only offset to the bounty fed competition, more especially in view of the prices prevailing at the time.

France then issued orders for a vigorous enforcement of her treaty rights.

This was followed by an offer from the Newfoundland government to accept the agreement, if the French government would give assurances:—

1. Not to renew the export bounties after the expiration of the then existing law;

2. To present to an authoritative definition, satisfactory to the two governments, of the words 'interrupt in any manner' contained in the declaration of 1783, and articles 8 of the arrangement; and

3. Permit British fishermen when brought before the commanders of French warships, to have their statements taken down in writing in their own language and attached to the processings.

France intimated that no alteration would be made in her policy regarding fishing bounties.

THE BAIT ACT OF 1886.

Newfoundland retaliated with the Bait Act of 1886—'An Act to regulate the sale of herring, capelin, squid and other bait fishes,' by which the taking of bait fishes for exportation, without a license, was prohibited. A penalty of \$400 for a first offence, and imprisonment for twelve months for subsequent offences, were provided. Treaty rights with nations in amity were not to be affected, and the Act was to come into operation on the 31st December, 1886.

The Governor of Newfoundland reserved this Act for Royal Assent.

This legislation was regarded by the Imperial Government as a new departure. When the convention of 1857 was under consideration, a bait clause formed one of the grounds for rejection by Newfoundland; but that clause, which allowed the French to catch bait under certain circumstances, in addition to purchasing it, was much less favourable than that of the arrangement of 1885.

In negotiations since 1857, provisions for the sale of bait to the French were invariably contemplated, and on more than one occasion it was agreed to by Newfoundland's representatives, while in the resolutions of 1867 and 1871 the executive of that colony agreed to a clause allowing the French fishermen to purchase bait at such times as British subjects might lawfully take the same, and in the first stages of the arrangement of 1884, the bait clause was not objected to, exception being taken only in the revised arrangement of 1885.

Being of opinion that a remedy might be found in some other direction, and in view of the departure from a policy so long obtaining, Her Majesty's government withheld assent to the Act for the season of 1887.

THE BAIT ACT OF 1887.

The next action of the Newfoundland government was to pass another Bait Act on the 21st February, 1887—'An Act to regulate the exportation and sale of herring, capelin, squid, and other bait fishes.'

This Act forbade hauling, catching, purchasing or selling bait, except under license. Rights of states in amity were not to be affected, and the operation of the Act was to depend on Royal Assent.

CANADA OBJECTS.

Canada then recorded her objections to this reserved Act, and pointed out that if it became law Canadian interests would be affected, as follows:—

1. It would cut off Canadian fishermen on the banks from a free supply of bait, either by purchase or catch;

2. Canadian fishermen on the coast of Labrador would be debarred from the privilege of the free catch of herring, and their hitherto untrammelled trading in herring;

3. Trade by Canadian vessels in herring or bait fishes upon the Newfoundland coasts would be no longer free; and

The exclusion of British subjects from their rights was protested against.

She remonstrated against restrictions placed on British ships, whereby they were required to pay a license fee of \$1 per ton for each entry, and were restricted to one barrel of bait per registered ton, and to give a bond for \$1,000.

The prohibition in reference to purchasing bait extended to all places on or near any part of the colony of Newfoundland and its dependencies. Thus no limit, capable of being defined, was given to the extent of the enactment, and inasmuch as a violation of the provisions of the Bill was to be followed by very heavy penalties, such an enactment was embarrassing and oppressive in its operations.

Extraordinary jurisdiction to magistrates, which most stringent Acts elsewhere had given only to vice-admiralty courts, was contemplated.

Inordinate inducements were held out to prosecutors, who were rewarded even in the case of acquittal. The appeal was valueless, as the season would be over before its termination.

ROYAL ASSENT ON NEWFOUNDLAND'S ASSURANCES.

Most emphatic assurances were given by the Newfoundland government that the Canadian fishermen would be on the same footing as those of Newfoundland, under the Act, and that any required guarantee to such effect would be given, and Canada was asked to advise Her Majesty's government that such an explanation was satisfactory. The Newfoundland delegates likewise gave similar assurances to Her Majesty's government, avowedly to remove objections and to promote Royal Assent.

Her Majesty's government, regarding these assurances as constituting a sufficient safeguard of Canadian interests, assented to the Bill, and Canada asked for an intimation of the nature of the regulations under which it was proposed that Canadians should enjoy equal rights with Newfoundlanders, but no such intimation was vouchsafed.

THE ACT OF 1889 ENFORCED AGAINST CANADA.

On the 1st June, 1889, Newfoundland passed an amendatory Bait Act—'An Act to amend and consolidate the laws relating to the exportation and sale of bait fishes.'

In this Act the provisions of that of 1887 were included. It prohibited the export, catch, purchase or possession of any bait fishes for the purpose of exportation from Newfoundland.

Provision was made for the granting of licenses for the above purposes, under authority of the Governor in Council. Extraordinary penalties, and imprisonment were provided. The Act came into force 8th April, 1890, by proclamation.

In that year the Newfoundland government notified Canada that it would be enforced against Canadian fishermen, and during that year Canadian fishing vessels on the coast of Newfoundland, desiring bait for their operations, were compelled to pay a license fee of \$1 per ton register and give a bond for \$1,000.

CANADA REMONSTRATES.

Canada promptly remonstrated against this repudiation of the pledges of the Newfoundland government that Canadian fishermen should in no way be hampered by the Bait Act, and contrasted such treatment with that extended to Newfoundland vessels in Canada.

The Newfoundland government gave no reply; but made a slight modification in the license fee by fixing it at \$1 per barrel for bait up to forty barrels, instead of \$1 per registered ton. This modification in no way met Canada's objections.

THE BOND-BLAINE CONVENTION.

On the 21st October, 1890, the High Commission in London was cabled by the Prime Minister of Canada, that Mr. Bond, of the Newfoundland ministry, then at Washington, announced authority from the Imperial government to make a separate treaty for the free admission of Newfoundland fish to the United States markets, in exchange for bait and other privileges.

He was instructed to ascertain the truth and enter a protest, which he did on the same day, and later, on the 27th of the same month, pointed out to the Secretary of State for the Colonies that the difficulties of the vexed question of the British North America fisheries would be greatly increased by the wide departure proposed from the long-established policy that had hitherto prevailed.

This protest was followed by an approved minute of council, 12th December, 1890, based on a report by the Minister of Justice and the Minister of Marine and Fisheries, advocating unity of action and explaining Canada's objections.

The terms of the proposed convention were in part epitomized as follow:—

Article I.—United States vessels to have privilege of purchasing bait in Newfoundland on the same conditions as Newfoundland vessels, and to be allowed to touch and trade, sell their fish and oil, and procure supplies, paying same dues as Newfoundland vessels, and conforming to the harbour regulations.

Article II.—Facilities to be given for recovery in the United States courts, of the penalties incurred under bonds, by United States citizens;

Article III.—United States to admit duty free Newfoundland codfish, cod-oil, seals, herrings, salmon, lobsters, &c., and crude produce of mines;

Article IV.—Convention to continue for ten years and thereafter from year to year, subject to a year's notice.

It was shown that from the earliest period in the history of the North America fishery question down to the opening of the negotiations with Mr. Bond, Her Majesty's government had invariably recognized the fact that the interests of all its possessions in British North America, with regard to the fisheries, were bound up together, and could only be properly dealt with on a ground common to all.

This view has prevailed at every step in diplomacy and administration, the two great points on which the Atlantic fisheries question has always turned being the competition in fishing between British subjects and foreigners, and the question of access to the markets of the United States for sale of fish caught by British subjects.

In early times the negotiations which took place between Great Britain and foreign countries concerning the fisheries,

had chiefly in view the bank fisheries off the coast of Newfoundland, the prosecution of which was immensely facilitated by the obtaining of supplies and outfits in the island of Newfoundland and on the coasts of some of the provinces now forming part of Canada. The fisheries, with that adjunct, were regarded as the principal object to be secured and established in any arrangement made by Great Britain, and the great object aimed at by the United States and France, and successive treaties and legislation were cited in support of the Canadian contention.

Should the draft convention be adopted, the singular case would be presented of one colony of the Empire admitting foreign vessels to privileges in her ports, and excluding the vessels of the neighbouring colony, as well as those of the another country from like privileges.

While Her Majesty's government had sanctioned negotiations, it was at the same time suggested that before they proceeded further, the Canadian government might be informed, as they might wish to negotiate on the same lines regarding the Maritime provinces.

On the 25th November, 1890, the Secretary of State for the Colonies announced that the Newfoundland convention would be delayed, to permit Canadian negotiations to proceed *pari passu*.

On the 18th December, 1890, a minute of council was approved by His Excellency, intimating that it had been learned the United States authorities were not averse to negotiations for a reciprocity treaty on a wide basis, and it was suggested that a joint commission should be appointed to deal with questions affecting Canada and the United States.

A revised draft of the proposed convention was received, and Canada reiterated the objections already taken and further pointed out the danger of discrimination in tariff.

Her Majesty's government then asked for a withdrawal of Canada's objections, in view of Newfoundland's willingness to negotiate for an arrangement with Canada on a similar basis.

On February 12th, 1891, referring to the position of the case, in a despatch to Sir Terrance O'Brien, Lord Knutsford said, that until it had been more definitely ascertained whether negotiations on a broader basis could proceed *pari passu*, the Newfoundland convention must remain in abeyance.

DISCRIMINATION AGAINST CANADA IN FAVOUR OF U.S.

Canada's cause for complaint had hitherto been confined to the exaction of license fees in the application of the Bait Act, in flagrant violation of unequivocal pledges which she had been prevailed upon to accept to assist Newfoundland's policy, professedly directed against one foreign nation; but under the instructions of 1889 she found herself without notice positively excluded in British waters from participating in the bait supply under any circumstances, while citizens of another foreign nation were heartily accorded free licenses for rights and privileges they had renounced forever by the convention of 1848.

In addition to the above, by a strict interpretation of the term 'bait fishes,' a large and remunerative business in frozen herrings for commercial purposes, was entirely stopped. Thus, Canadians were not only denied the bait supply, essential to their fishing operations, but were refused the privilege of purchasing herring for any purpose whatever.

This discrimination against Canada, and the facilities afforded United States citizens—foreign rivals—from which they

were excluded by the convention of 1818, was regarded as tending to induce Canadian skippers and crews to transfer their operations to United States fishing vessels.

EXACTION OF FEES ILLEGAL.

The imperial law officers of the Crown advised that the exaction of the license fees in 1890 was *ultra vires* and illegal, and the amount paid in each case could be recovered.

By agreement with the parties interested, the Minister of Marine and Fisheries took proceedings, through the Justice Department, against the Newfoundland government, with the result that the fees were eventually refunded to the persons from whom they were collected.

In the meant *i.e.*, however, Newfoundland sought to obtain legislation having retroactive force, to legalize the exaction of the fees in 1890; but the law officers advised that as there was no statutory or other authority for charging such fees, they ought not to be sanctioned by retroactive legislation, and Her Majesty's government withheld assent to that portion of the Newfoundland Revenue Act of 1891.

At the time the Secretary of State for the Colonies expressed the opinion that as the Newfoundland government had adopted a more friendly attitude towards Canada, it would be a graceful net to withdraw the action for recovery.

It was explained that Canada was under moral obligation to the litigants, and was unable to recommend the abandonment of the suits.

NEWFOUNDLAND'S POSITION.

The Newfoundland position may be summarized thus: Canada had long understood that a preliminary to getting access to Newfoundland bait supplies was the passing of a Bait Act similar to theirs, against the French.

She was also asked to assist in enforcing the Newfoundland Act against French fishermen.

Canada was aware that the object was to exclude the French fishermen from getting bait. She had asked for and obtained permission to procure bait in Newfoundland, on the same footing as Newfoundlanders, and her fishermen had in 1888, 1889 and 1890, supplied bait to the French at St. Pierre, from the Magdalen islands, Cape Breton and Newfoundland, thus frustrating the object in view.

She understood in 1891 that bait would be withheld unless measures were taken to stop Canadian vessels supplying the French fishermen, and otherwise assist to debar them. The embargo would be removed immediately on such assurance.

CANADA'S REJOINDER.

Canada pointed out that the whole question of the embargo on bait was an afterthought. The allegation that Canadians had violated the Bait Act had not been sufficiently shown, and in the earlier negotiations Newfoundland admitted that Canadians were less likely to violate the conditions of the Act than her own people, by whom it was thought the chief efforts would be made to infringe the Act. It was said that on one occasion a fleet of sixty Newfoundland vessels resisted authority and carried bait to St. Pierre from Bay Fortune. Besides there was nothing to prevent United States vessels, which got bait free, from selling to the French, if they chose.

It was shown that Canada had signified her readiness to legislate in the direction of preventing Canadian vessels from

violating the provisions of the Newfoundland Bait Act as soon as those vessels were accorded in the ports of Newfoundland the privileges assured them by the government of the colony. No distinction was drawn by Canada between her own and Newfoundland fishing vessels, and the Canadian waters and the shores of the Canadian Labrador were freely used by them.

In the opinion of the law officers of the Crown, the Newfoundland government was not empowered by the Act of 1887 or entitled apart from that Act to exclude Canadian or British fishermen from obtaining licenses.

Apart entirely from the legal aspect of the legislation, the failure to fulfil the engagements entered into on behalf of the government of Newfoundland, avowedly to promote the allowance of the Act, rendered imperial legislation for its repeal justifiable and a request for such repeal is emphasized by the fact that it was used as a means of discriminating against Canada in favour of the United States.

NEWFOUNDLAND DECLINES JUDICIAL INQUIRY.

The Newfoundland government, after inquiring into the opinion of the law officers of the Crown, declined an invitation by Canada, at the suggestion of Her Majesty's government, to submit a joint case to the Judicial Committee of Her Majesty's Privy Council.

The policy of exclusion of Canadians and exceptional treatment of United States citizens therefore continued under arrangements which enabled the latter to escape the duty levied by the tariff of their own country upon Canadian fish.

The action of Newfoundland was largely influenced by the attitude of Canada towards the Bond-Blaine convention, and the withdrawal of her objection to that arrangement was asked for. This, however, amounted to a practical abrogation of the convention of 1818.

STATES QUO OF 1889 AGREED TO.

On the 21st May, 1892, the Governor of Newfoundland announced that his government agreed, in order to meet the wishes of Her Majesty's government, to revert, pending a conference, to the *status quo* of 1889, for the current year. Additional duties on Canadian products to be removed, on the receipt of intimation that Canada had removed duties on Newfoundland products.

This arrangement was accepted by Canada on the understanding that while Newfoundland contemporaneously removed the duties mentioned, she would also remove restrictions as to bait and bait fishes.

As the statutes of both countries required that it should be stated that the other had removed the duties in the proclamation issued, the following despatch from Newfoundland, 27th May, 1892, was received:—

Notice inserted in *Gazette* to-day that extra duties levied under section 13, Revenue Act, 1891, will not be collected on and after this date. Dominion government having removed duties on fish and fish products exported from Newfoundland into the Dominion of Canada, notice has been given by telegraph to officials to grant bait licenses to Dominion fishermen upon the same terms as to Newfoundland fishermen, giving similar bonds.

Canada replied:—

Dominion government agree to remove duties on and after 27th May, on the understanding that on the 27th May, New-

foundland government do likewise, and also remove restrictions as to bait fishes. Please telegraph as soon as instructions are issued; but our proclamation will issue on 27th May, on the assumption that the agreement has been carried out in Newfoundland.

A proclamation issued accordingly, providing that the duties on fish and fish products from Newfoundland, under schedule 'B' of the Canadian Customs Tariff, should not be exacted.

HALIFAX CONFERENCE OF 1892.

The negotiations culminated in a conference at Halifax between the Honourable Sir J. S. D. Thompson, K.C.M.G., the Honourable Mackenzie Bowell, and the Honourable J. A. Chapleau, representing Canada, and the Honourable Sir William Whiteway, K.C.M.G., the Honourable A. W. Harvey, and the Honourable Robert Bond, representing Newfoundland.

The conference met on the 9th, and concluded on the 15th November, 1892. The scope of its consideration embraced:—

1. The convention between Newfoundland and the United States, known as the Bond-Blaine convention.
2. The bait question;
3. The imposition of duty on Newfoundland fish by the Canadian government and duty by Newfoundland on Canadian products;
4. The boundary between the Canadian Labrador and Newfoundland;
5. The status of Newfoundland fishermen on the coast of Labrador, and the status of Canadian fishermen on the coast of Newfoundland;
6. The fees collected from United States fishing vessels under the *modus vivendi*, for licenses in 1888 and succeeding years.

Any conclusions to be *ad referendum* to respective governments.

The discussions of this conference are contained in approved minute of council, 9th December, 1892.

CONFEDERATION CONFERENCE.

In April, 1895, Honourable Messrs. Robert Bond, E. P. Morris, G. H. Emmerson, and W. H. Norwood, representing Newfoundland, visited Ottawa, and held a conference with a sub-committee of the Privy Council, composed of Sir Mackenzie Bowell, Sir A. P. Caron, Honourable George E. Foster and Honourable John Haggart, touching the terms upon which it was proposed to bring that colony into the Dominion.

The discussion did not affect the standing of the questions between the two governments, and terminated without any conclusions being reached.

CURRENT CONDITIONS.

Meanwhile complaints were made by certain Canadians that the policy of the Newfoundland government was to collect duty on barrels, salt and empty oil casks, which were taken on board for the purpose of packing and curing the fish caught, and receiving seal oil, and neither intended to be nor actually landed.

These complaints were brought to the attention of the Newfoundland government through the Secretary of State for the Colonies, and at his request the Colonial Secretary, Honourable Robert Bond—21st October, 1895—communicated directly to the Secretary of State for Canada the decision of the

Newfoundland government in the premises, which was to refund the duties in the immediate case complained of, and to announce for the information of the other fishing vessels frequenting the Newfoundland coasts that in future such articles should be reported as intended for export, and bonds taken for such export, or the duty paid, and refunded upon the production of certificate of such exports having been entered in Canadian ports. Apparently this policy was confined to fishing vessels.

Then came the Joint High Commission of 1808, for the settling of outstanding differences with the United States, to which Newfoundland was a party, and which has had the effect of further hobbling the questions between Newfoundland and Canada in abeyance.

In February, 1809, the attention of the department was called to the refusal of the Newfoundland government to permit Canadian vessels to export herring for any purpose other than for food, and representations were immediately made through the Governor General, remonstrating, and asking for an intimation of the policy it was intended to pursue towards Canadian vessels visiting ports in Newfoundland seeking cargoes of bait fishes to be brought to Canada either for consumption as food, for baiting lobster traps or for any other purpose whatever.

Pressing communications being subsequently received as to the effect Newfoundland's policy would likely have upon the Canadian lobster fishery, the Newfoundland government was called the urgent desire of the Canadian government that modification should be made to enable lobster fishermen to obtain bait subject to reasonable conditions to prevent such bait being used by French vessels on the banks.

To Canada's representations, the Newfoundland government returned a reply to the following effect:—

The acting Minister of Marine and Fisheries had been called upon to report on the matter, which report had been endorsed by the Executive Council, who ordered that the export of fresh herring except for food, (a) during the early winter, when in a frozen state; and (b) if taken in salt under certain conditions to secure good faith at a later season, shall be prohibited therewith, and that the export in bulk for lobster bait shall not be permitted under any conditions; and that the Canadian government be informed that the protection of Newfoundland's bait fishes is the only and sufficient reason for this policy.

The acting minister's reasons for recommending such restrictions were:—

1. Other vessels (Newfoundlanders) had been refused permission to take bait fishes for the same purposes;
2. It was deemed suicidal to permit the taking of large quantities of herring for any purpose, so valuable are they for the codfishery at the proper season, and this was a device to check taking and export. It was even urged that hereafter herring should not be taken except for bait for fishing vessels in the regular fishing season;
3. If taken for lobster bait its sale at St. Pierre would be possible—much more so than if taken fresh for food, when the sale or packing in salt could be watched.

The Governor of Newfoundland called particular attention to the allegation that Canadian vessels supplied bait from the Newfoundland coasts as well as from the Magdalen islands and elsewhere for sale at St. Pierre, and for use by the French and American fishermen, which largely nullified the good effects of the Newfoundland Bait Act.

It was also suggested that Canada should initiate legislation to enforce obedience to Newfoundland's law by Canadian vessels, and to meet the other objectionable practices referred to.

It was not clear from this whether *bona fide* Canadian fishing vessels, bound for the banks, were to be permitted to procure the necessary bait supply for their own purposes, although it was assumed that they were, since that right was secured to them as a condition of the passage of the Bait Act.

The recent complaints have not been from Canadian fishing vessels, but from trading vessels.

At the Canada-Newfoundland conference at Halifax in 1892, the matter was left standing practically thus, the undertaking to be *ad referendum* to the two governments:—

The negotiators could not, without reference to the government, engage to withdraw protest against ratification of the Bond-Blaine convention, even if she failed in similar negotiations with the United States.

Therefore the question should remain in abeyance, pending agreement.

That Her Majesty's government should not be asked to ratify the convention until Canada could arrange in reasonable time with the United States government for equal footing with Newfoundland.

Canadian fishermen and vessels to be on the same footing as those of Newfoundland as to supplies of bait and other matters, and no discrimination made against exports from Canada.

Canada to adopt any competent legislation to prevent infractions of the Newfoundland Bait Act by Canadians procuring bait, and also to acquiesce in the proposal for a consulate at St. Pierre, and a delimitation of the Labrador boundary.

Meanwhile the interim agreement reached for the year 1892, by the conference, has been practically continued up to date, unless indeed the recent action of Newfoundland in refusing bait fishes might be combatted under the conditions under which the Bait Act was passed, although they now profess to treat us on the same ground as their own fishermen.

The *status quo* of 1889, arranged for in 1892, was that the Bait Act should not be enforced against Canada, and therefore no restrictions on the export of bait fishes were imposed.

RELATIONS BETWEEN CANADA AND THE UNITED STATES, GROWING OUT OF TREATIES, CONVENTIONS AND *MODUS VIVENDI* REGULATING RIGHTS AND PRIVILEGES TO UNITED STATES FISHING VESSELS IN ATLANTIC WATERS.

Fishing vessels and trading vessels belong to distinct categories. The latter are navigated under the laws applicable to the shipping engaged in trade and commerce.

United States fishing vessels are excluded from British territorial waters, ports or harbours, except for certain purposes.

The rights of such fishing vessels in British North American waters are measured by the convention of 1818. This forms the standard, and any additional concessions can be secured only by conventional arrangement, supported by efficient legislation.

These rights are :—

They may enter Canadian ports and inshore waters for:

1. Shelter;
2. Repairs;
3. Purchasing wood;
4. Obtaining water, and 'for no other purpose whatever.'

5. In addition to these general rights, they have reserved to them forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau islands, on the western and northern coasts of Newfoundland from the said Cape Ray to the Quirpon islands, on the shores of the Magdalen islands, and also on the coasts, bays, harbours and creeks from Mount Jodi, on the southern coast of Labrador, to and through the Strait of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson Bay Company; and that the American fishermen shall also have the liberty forever to dry and cure fish in any of the unsettled bays, harbours and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same or any portion thereof shall be settled it shall not be lawful to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors or possessors of the ground.

A desire on the part of the United States for greater privileges and conveniences to enable them to successfully and profitably prosecute the fisheries, induced negotiations which led to

THE RECIPROCITY TREATY OF 1854.

By this treaty it was agreed that *in addition* to the liberties granted by the convention of 1818, the United States should have, in common with British subjects, the right to take fish of every kind, except shellfish, on the sea coasts and shores, and in the bays, harbours and creeks of Canada, New Brunswick, Nova Scotia, Prince Edward Island, and of the several islands thereto adjacent, without being restricted to any distance from the shore, with permission to land upon the coasts and shores of those colonies and islands, and also upon the Magdalen islands, for the purposes of drying their nets and curing their fish, provided that in so doing they did not interfere with the rights of private property or with British fishermen in the peaceful use of any part of the said coast in their occupancy for the same purpose; but it was specified that it should be understood, that such liberty applied solely to the sea fisheries, and that salmon and shad fisheries, and all fisheries in the mouths of rivers were reserved exclusively to British fishermen.

The same privileges were granted British fishermen on the eastern seacoast of the United States north of the 36th parallel of north latitude, which it is needless to say were of little value, and were not availed of by Canada.

The treaty operated from 1854 until 1866, being terminated by notice given by the United States government. Efforts for its renewal were unsuccessful, which revived the convention of 1818.

As a matter of grace, and to prevent loss to United States fishermen by so sudden a change, Canada adopted the temporary expedient of issuing season licences to United States fishing vessels for the privileges in question, at a nominal tonnage rate. This system obtained for four years, until 1869; but as the

United States fishing vessels neglected to procure licenses—falling off from 305 in 1866 to 35 in 1869—it was abolished, and in 1870 a fisheries protection fleet was inaugurated, known as 'Marine Police,' with which Her Majesty's North American squadron co-operated in preventing invasions of the in-shore fisheries.

This fleet was maintained in 1870, 1871 and 1872, during which time some twenty United States fishing vessels were seized for infractions of the convention of 1818.

Meanwhile negotiations were proceeding, which resulted in the 'Joint High Commission,' to which tribunal, among other things, the fisheries question was referred, followed by the

TREATY OF WASHINGTON 1871.

This treaty was signed on the 8th May, 1871, and its proclamation fixed at 1st July, 1873; but again Canada's conciliatory policy induced her to concede to the United States' wishes, and in anticipation admitted United States fishermen to the use of the privileges in April, 1873, in advance of the date fixed upon by legislative enactment; while it is worthy of note that the privileges granted by the United States were not conceded to Canada and Prince Edward Island until 1st July, 1873, and in the case of Newfoundland, not until the 1st January, 1873.

The fishery articles of the treaty of Washington are XVIIII. to XXV. inclusive, and articles XXXII. and XXXIII.

The privileges conveyed to United States citizens were:—

In addition to the liberty secured by the convention of 1818, they were granted the liberty in common with British subjects to take fish of every kind, except shellfish, on the seacoasts and shores and in the bays, harbours and creeks of the provinces of Quebec, Nova Scotia and New Brunswick, and the colony of Prince Edward Island, and adjacent islands, without restriction as to distance from shore, with permission to land upon the said coasts, shores and islands, and Magdalen islands, for the purposes of drying their nets and curing their fish, provided they did not interfere with private property or the use and occupancy of British fishermen. The privileges to apply solely to the sea fisheries; the salmon and shad fisheries, and all other fisheries in rivers and the mouths of rivers being reserved exclusively for British fishermen.

Like privileges being granted to British fishermen on the eastern seacoast and shores of the United States, north of the 39th parallel, with the same reservations.

To Canada was also secured the free entry of fish oil and fish of all kinds except those of the Great Lakes and rivers emptying thereinto, and except fish preserved in oil.

Article XXXII. extended the provisions of the preceding articles to Newfoundland, so far as they were applicable.

This treaty continued to regulate the relations between the two countries affecting the fisheries, until the 1st July, 1885, the United States government having in 1883 notified that of Her Majesty, that the fishery articles would terminate on that date.

Again Canada, for the same reasons of comity which have always influenced her, notwithstanding that the United States herself elected to terminate the treaty conditions, in order to obviate hardship and avoid complications, permitted those conditions to continue until the end of the fishing season of 1885; but of course the concessions to Canada affecting free fish were not similarly extended.

As part of this agreement, the P

of the United States
Congress at its next

session, in December, 1885, and recommend the appointment of a joint commission to consider matters between the two countries.

A recommendation of the character, however, did not meet with the approval of the Committee on Foreign Relations, and the conditions under the convention of 1818 automatically revived.

Canada, for the second time—1886—equipped a fisheries protection fleet, which is maintained up to the present time—1905.

During the first year or two, numerous seizures of and interferences with United States fishing vessels occurred for encroachments upon Canadian in-shores, and a voluminous and heated diplomatic correspondence ensued, culminating in negotiations, which resulted in the unratified treaty of Washington (1888), sometimes called the Chamberlain treaty.

This instrument was formally ratified by the Imperial and Canadian parliaments; but was rejected when it came up before the Senate of the United States, although agreed to by their negotiators.

It provided for a mixed commission to delimit the waters of Canada and Newfoundland, as to which the United States, by the convention of 1818, renounced forever any liberty to take, dry or cure fish;

That the three miles mentioned in the convention of 1818 should be measured seaward from low water mark; but at every bay, creek or harbour not otherwise specially provided for in that treaty, such three marine miles should be measured seaward from a straight line drawn across the bay, creek or harbour, in the part nearest the entrance, not exceeding ten miles.

That on or near certain specified bays, the limit of exclusion should be a line drawn from points named in the treaty;

And that at or near certain other specified bays the limit of exclusion should be three miles seaward from a line drawn at points named in the treaty. These two delimitations gave more than ten miles.

That Long Island and Brier Island, at St. Mary's bay, in Nova Scotia, should, for the purposes of delimitation, be taken as the coasts of such bay;

That any such interior waters as cannot be reached from the sea without passing within three marine miles, were not to be included in the common waters;

That nothing in this treaty should affect the free navigation of the Strait of Canso by United States fishing vessels;

That United States fishing vessels entering bays or harbours referred to in the convention of 1818 should conform to harbour regulations, in common with Canadian and Newfoundland vessels. They need not report, enter or clear when putting in for shelter or repairing damages, nor outside the limits of established ports of entry when putting in for wood or water, except when remaining more than twenty-four hours, and no vessel was excused from giving due information to boarding officers.

They were not to be liable to compulsory pilotage; nor when in for wood, water, shelter or repairs, should they be liable for harbour, tonnage, buoy, light or other similar dues; but no other charges inconsistent with the convention of 1818 were thus permitted.

United States fishing vessels entering ports, bays and harbours of the eastern and northern coasts of Canada or the coasts of Newfoundland, under stress of weather or other casualty, might unload, reload, tranship or sell, subject to customs laws and regulations, all fish on board, where such is neces-

arily incidental to repairs, and they could replenish outfits, provisions and supplies damaged or lost by disaster, and in case of death or sickness be allowed all needful facilities, including the purchase of provisions for the crews.

United States vessels to purchase in established ports of entry of the said coast of Canada or Newfoundland, for the homeward voyage, such provisions and supplies as are ordinarily sold to trading vessels, should be granted to United States fishing vessels in such ports, promptly upon application and without charge; and such vessels having obtained licenses in the manner aforesaid, should also be accorded upon all occasions such facilities for the purchase of casual or needful provisions and supplies as are ordinarily granted to trading vessels; but such provisions or supplies should not be obtained by barter, nor purchased for resale or traffic.

Fishing vessels of Canada and Newfoundland to have on the Atlantic coasts of the United States all the privileges above reserved to United States fishing vessels in Canada or Newfoundland.

The United States to make regulations providing for the conspicuous exhibition by every United States fishing vessel of its official number on each bow, and any such vessel required by law to have an official number, and failing to comply with such regulations was not to be entitled to the license provided for in the treaty. The regulations to be submitted to Her Majesty's government previous to their taking effect.

The penalties for unlawfully fishing, referred to in Article I might extend to forfeiture of the boat or vessel and appurtenances and also to the supplies and cargo on board when the offence was committed; and for preparing in such waters to unlawfully fish therein; penalties to be fixed by the court not to exceed those for unlawfully fishing; and for any other violation of the law relating to the right of fishery in such waters, penalties to be fixed by the court, not exceeding in all \$300 for every ton of the vessel or boat concerned.

The boat or vessel may be holden for such penalties or forfeitures, the proceedings to be summary and as inexpensive as practicable. The trial—except on appeal—to be at the place of detention unless the judge, on the request of the defence, should order it to be held at some other place adjudged by him to be more convenient. Security for costs not to be required of the defence except when bail was offered. Reasonable bail to be accepted. Proper appeals available to the defence only, and evidence at the trial to be available on appeal.

Judgments of forfeiture to be reviewed by the Governor in Council before being executed.

Article XV. reads:—

Whenever the United States shall remove the duty from fish-oil, whale-oil, seal-oil and fish of all kinds (except fish preserved in oil), being the produce of the fisheries carried on by the fishermen of Canada and of Newfoundland, including Labrador, as well as from the usual and necessary casks, barrels, kegs, cans, and other usual and necessary coverings containing the products above mentioned, the like products being the produce of fisheries carried on by fishermen of the United States, as well as the usual and necessary coverings of the same, as above described, shall be admitted free of duty into the Dominion of Canada and Newfoundland.

And upon such removal of duties, and while the aforesaid articles are allowed to be brought into the United States by British subjects, without duty being reimposed thereon, the privilege of entering the ports, bays and harbours of the aforesaid coasts of Canada and of Newfoundland shall be accorded

United States fishing vessels by annual licenses, free of charge, for the following purposes, namely :

'1. The purchase of provisions, bait, ice, seines, lines, and all other supplies and outfits;

'2. Transhipment of catch, for transport, by any means of conveyance;

'3. Shipping of crews;

'Supplies shall not be obtained by barter; but bait may be so obtained.

'The like privileges shall be continued or given to fishing vessels of Canada and of Newfoundland on the Atlantic coasts of the United States.'

HISTORY OF THE MODUS VIVENDI LICENSES.

The following protocols, dated at Washington, 15th February, 1888, were attached to the above-mentioned treaty :—

'The treaty having been signed, the British plenipotentiaries desire to state that they have been considering the position which will be created by the immediate commencement of the fishing season before the treaty can possibly be ratified by the Senate of the United States, by the Parliament of Canada, and the Legislature of Newfoundland.

'In the absence of such ratification the old conditions which have given rise to so much friction and irritation might be revived, and might interfere with the unprejudiced consideration of the treaty by the legislative bodies concerned.

'Under these circumstances, and with the further object of affording evidence of their anxious desire to promote good feeling and to remove all possible subjects of controversy, the British plenipotentiaries are ready to make the following temporary arrangement for a period not exceeding two years, in order to afford a *modus vivendi* pending the ratification of the treaty :—

'1. For a period not exceeding two years from the present date, the privilege of entering the bays and harbours of the Atlantic coasts of Canada and Newfoundland shall be granted to the United States' fishing vessels by annual licenses at a fee of 1½ dollars per ton for the following purposes :—

'The purchase of bait, ice, seines, lines, and all other supplies and outfits.

'Transhipment of catch and shipping of crews.

'2. If, during the continuance of this arrangement, the United States should remove the duties on fish, fish-oil, whale and seal-oil (and the coverings, packages, &c.), the said licenses shall be issued free of charge.

'3. United States' fishing vessels entering the bays and harbours of the Atlantic coasts of Canada or of Newfoundland for any of the four purposes mentioned in Article 1. of the convention of the 20th October, 1818, and not remaining therein more than twenty-four hours, shall not be required to enter or clear at the custom house, providing they do not communicate with the shore.

'4. Forfeiture to be exacted only for the offences of fishing or preparing to fish in territorial waters.

'5. This arrangement to take effect as soon as the necessary measures can be completed by the colonial authorities.

'The American plenipotentiaries having received the communication of the British plenipotentiaries of this date, conveying their plan for the administration to be observed by the governments of Canada and Newfoundland in respect of the fisheries during the period which may be requisite for the consideration by the Senate of the treaty this day signed, and the

enactment of the legislation by the respective governments therein proposed, desire to express their satisfaction with this manifestation of an intention on the part of the British plenipotentiaries, by the means referred to, to maintain the relations of good neighbourhood between the British possessions in North America and the United States; and they will convey the communication of the British plenipotentiaries to the President of the United States, with a recommendation that the same may be by him made known to the Senate for its information, together with the treaty, when the latter is submitted to that body for ratification.'

LEGISLATION.

Accordingly, Canada enacted legislation to give effect to that part of the *modus vivendi* which covered the issue of licenses; but the suggestion of forfeiture of vessel, &c., should be exacted only for the offences of fishing or preparing to fish, was left untouched, no change being made in the law in that respect.

The Act 51 V., C. 30, entitled: 'An Act respecting a certain treaty between Her Britannic Majesty and the President of the United States,' was assented to on the 4th May, 1888.

This Act, while ratifying the treaty, so far as Canada was concerned, provided by section 14, for the operation of the *modus vivendi* for a period of two years—1888 and 1889—sub-section 5 of which declared it void and without effect however, if the treaty were rejected by the Senate of the United States.

In the hope of reaching some satisfactory conclusion of the vexed question, and as a matter of grace, instead of discontinuing the issue of these licenses, Canada followed a conciliatory policy, and by Act of parliament, 53 Vic., chap. 69, 16th May, 1890, continued for that year, under a new authority, the privileges conveyed by the licenses under the expired *modus vivendi*.

This course was continued in 1891; but in 1892, to avoid the necessity of going to parliament each year, legislation was obtained, 55-56 Vic., chap. 3, 10th May, 1892, empowering His Excellency the Governor General in Council from time to time to authorize the issue of such licenses. They have since been accordingly issued under that authority.

NEWFOUNDLAND'S CONNECTION.

At the beginning the issue of these licenses was mutually recognized by the governments of Canada and Newfoundland, and arrangements were made for a division of the license fees. This reciprocal issue continued, however, only during 1888 and 1889.

About that time the difficulties explained elsewhere in this memorandum arose between Canada and Newfoundland, and the latter colony pursued her own course in such matters up to the establishment of the Joint High Commission, in which she took part, and recently in connection with the Bond-Hay convention, the outcome of which negotiations is said to have elicited the action in terminating the *modus vivendi* licenses.

THE LICENSE.

No change was made in the form of license up to 1896; but as it was found that the expedient had been practiced of obtaining bait under license and selling it to other vessels without license, a clause was inserted in the license form providing for the cancellation of the license and the ineligibility of the vessel so offending to further license.

The following is a statement of the number of licenses issued by Canada together with the tonnage of the vessels, and the fees collected annually under the *modus vivendi* and its continu-
ing authority:—

Year.	Number of Licenses.	Total Tonnage.	Amount of Fees collected.
1888	36	2,554	3,311 00
1889	78	6,393	9,749 50
1890	119	9,641	14,621 50
1891	98	7,369	11,098 50
1892	108	8,910	13,410 00
1893	71	6,162	9,243 00
1894	53	4,517	6,775 50
1895	47	3,714	5,571 00
1896	77	6,390 60	9,585 00
1897	40	3,261	4,891 50
1898	79	5,316	7,974 00
1899	80	5,511	8,286 50
1900	78	5,652	8,478 00
1901	82	6,286	9,444 00
1902	89	6,743	10,115 15
1903	93	6,911	10,365 41
1904	80	6,137	9,205 50
1905			

REMARKS.

It will be observed that the *modus vivendi* protocol provided that if, during the term of the arrangement, the United States should remove duties on fish and fish products, these licenses should issue free of charge; but it is needless to say that the United States government made no such concessions, and the license fee is purely nominal in comparison with the privileges secured.

During the years specified—1888 and 1889—the issue of these licenses, if not obligatory, was at least politic and expedient; but neither Canada nor Newfoundland was under any obligation to continue them after the latter year, especially as the treaty was thrown out by the United States Senate during the pendency of the period limited for ratification, rendering the negotiations for the treaty ineffectual. They should, strictly speaking, have been discontinued immediately on the repudiation of the treaty by the United States, or at least when the term of the period expired in 1889.

Under these licenses, United States fishing vessels were placed on a par with Canadian fishermen on Canadian inshore waters, with the single exception of not being allowed to actually fish in our inshore waters.

As far back as 1895, the undersigned discussed in a memorandum to the then minister the advisability of discontinuing the system, or at least a readjustment of the conditions obtaining, and subsequently—1902—he again dealt with the subject, on representations that the privileges enjoyed by United States fishermen, and provincial fishermen employed on United States vessels, were ruining the Canadian fishing business.

The abolition of the license system was advocated as calculated to keep Canadians from manning United States vessels and give to our fishermen the supplying of United States markets from our base. Failing this, an increase in the license fee to \$10 per ton was suggested.

The main question is one of policy both from Imperial and Canadian standpoints. There can be no doubt that United States fishermen have always been treated in a much more generous manner than they could possibly find ground for claim from the utmost limit of concession, born of conciliation and good feeling.

The records show that the elastic policy of Great Britain and Canada in this respect was never properly appreciated by United States statesmen or fishermen, and that all sorts of devices were resorted to by the latter, in the face of most generous concessions from time to time extended to them, and it is worthy of note that the foregoing brief history shows that in every instance of variation from the strict terms of the convention of 1818, it was the United States herself that gave notice of the termination thereof, while invariably and most vehemently denouncing, in most unfriendly terms, the action of Canada, induced by the revival of the conditions of that treaty.

While they demanded and received liberal treatment on the Atlantic, the United States government treated our vessels on the Pacific as pirates, and illegally seized and harassed them more than one hundred miles from land in the first instance, and afterwards sought to cripple their operations by unwarrantable interpretation of protective machinery.

Incidentally it may be noted as indicative of the complacency of Canada's policy, that annually large numbers of special concessions are granted to United States fishing vessels, not claimable under treaty, statute or Order in Council; but merely asked for and granted as a matter of convenience and goodwill.

The following is the character of these concessions:—

The prohibition of the purchase of supplies and outfits and the shipment of men, without licenses, has been qualified as follows:—

(a) When a vessel enters for repairs and discharges crew, she may be allowed to ship a sufficient number of men to sail her home;

(b) Allowed to replace sick men landed;

(c) If in for repairs and short of provisions, may purchase enough for home voyage;

(d) If on the way home a vessel calls, actually short of food, she may purchase sufficient for home voyage;

(e) When a vessel, licensed or unlicensed, requires repairs involving loss of fish through stay, she may pay on payment of duty, the collector of customs being satisfied that the request is *bona fide* and not merely for the convenience of the vessel.

Returning to the question of *modus vivendi* licenses, the vital privileges conveyed are: (1) The purchase of bait; (2) The shipping of crews; (3) Transshipping of cargoes.

It is obvious that bait is the key to the whole question. Without it the industry cannot be pursued. It is true that along certain Canadian and Newfoundland coasts, the United States fishermen have the right of fishing in common with British subjects, and could thus procure bait; yet it pays them to purchase it from the fishermen rather than to catch it themselves. It gives them the necessary function of greater dispatch. It is, generally speaking, difficult for them to set nets to take bait. The use of seines and nets in the inshore water, which involves a class of nets and boats they do not use in the bank fishery, to carry which on such fishing vessels would be cumbersome and embarrassing; consequently they are not fitted for that branch of the fishery. Besides, the spring season is the only one in which this privilege could be availed of to any extent.

The privilege of shipping men is also of extreme value. They need the men and depend largely on our people to supply that want.

The right to land and ship their fish in bond, avoiding duties, and enabling them to refit for successive voyages during the season, which would necessarily be largely impracticable if

they had to take their cargoes home and refit there, is a great boon.

These advantages enable them to use Canadian ports as a base from which to successfully prosecute the fishing directly in competition with our fishermen, who are handicapped by the import duties which close the United States markets against them.

The question, however, is susceptible of argument from another viewpoint.

The remaining privileges conferred by the *modus vivendi* licenses, those of purchasing provisions and fishing outfits and supplies are minor ones, as to which considerable difference of opinion exists. The trade brought to Canadian ports by the fleet, in the purchase of these articles, must without doubt be of considerable benefit to the local merchants and other residents along the Canadian shores, who are anxious to sell their wares and to otherwise profit from the presence of these vessels. Perhaps in that way an equivalent might be argued, and it may be that a policy to allow the entry of United States fishing vessels for these latter purposes, exclusive of the former, would, at a much reduced license fee, or even free of charge, meet with favour among the residents of the Canadian ports, since the more trade in that direction, the better for the people generally, without affecting the fishing industry.

The following propositions suggest themselves, in the event of it being thought expedient to reconsider the question:—

1. The total discontinuance of such licenses;
2. Their continuance as now issued; but at a higher tonnage fee;
3. The issue of limited licenses; that is, for the purchase of ice, seines, lines, provisions and all other supplies and outfits required for the equipment and maintenance of a fishing vessel. Such license, however, in no way to permit the purchase of bait, shipment of crews or transshipment of catch, although the last might be allowed only where a vessel came into port for the purpose of refitting and purchasing supplies for a continuance of the fishing voyage.

Such an arrangement might meet with the views of a majority of the interested persons in the Maritime Provinces; but this is capable of ascertainment, and if this view is correct, it might be a question of policy deserving careful consideration.

The reservation of the essentials—bait and crews—is calculated to keep in the hands of Canada the principal factor, and there seems to be no reason why, because Canadians are so favourably situated with respect to the fisheries, they should voluntarily relinquish their vantage ground to foreigners, who in no way reciprocate.

The question of raising the fee on the present licenses would resolve itself into one merely of revenue, for unless the fee were fixed at a prohibitive figure, and if the United States vessels elected to pay the higher rate, the cause of complaint would not be removed, and the Canadian fishermen would be no further advanced.

Those who benefit by the sale of commodities to United States fishing vessels, under the present system, as distinct entirely from those whose interests lie in the other direction, may naturally be expected to object to a policy which would do away with that trade, and on this particular phase of the question, some additional detailed information is desirable.

If, therefore, after full inquiry, it be decided to make any change, it might be well, if possible, to devise some means of assisting the fishing interests, with as little loss to the trade as

possible, and perhaps the idea of limited licenses, exclusive of bait and crews, and restricting transshipment of catch, might be most likely to effect this.

On the other hand, it may be that it would practically terminate the issue of licenses, for if the vessels could not get bait or men, they might not require licenses for supplies and outfits.

The undersigned has endeavoured to put shortly the two sides of the question which appear to be capable of argument from the different aspects; but there can be little doubt that a strict application of the convention of 1818, involving the withdrawal of licenses and other concessions, is what would best conserve Canadian fishing interests, thus hampering competition, and not permitting the convenience of our ports to be used as a basis of fishing operations, at least until such time as the United States show a disposition to yield something for all they get, and agree to an arrangement which will open their markets to our fish. As it is, they are getting bait and other vital privileges from us for practically nothing, and are sending their markets against us in return.

It is true, the Atlantic fisheries question is one of those theoretically before the High Joint Commission, and the time may not be propitious for any drastic change. Nevertheless, it seems highly problematical whether that tribunal will convene, and in any event, the question of the expediency of withdrawing it from the scope thereof, in like manner with the Alaska boundary contention and some Behring Sea claims, is open to consideration.

The question, therefore, becomes one of advanced policy, and as such is in every way worthy, in the opinion of the undersigned, of the most serious consideration of the government, even to the length of some possible intercolonial convention with the sister colony of Newfoundland, designed to cement these identical interests by mutual action, looking to a monopoly of the bait supply in the North Atlantic for British subjects, to the exclusion of the outside world and its extinguishment as a factor in the participation of the vast fisheries, which by right and geographical position naturally belong to us.

The opportunity for great and permanent results appears to be but waiting and inviting action.

Respectfully submitted,

R. N. VENNING.

OTTAWA, July 7th, 1905.

